

AMENDED IN SENATE MAY 22, 2001

AMENDED IN SENATE MAY 7, 2001

SENATE BILL

No. 205

Introduced by Senator McPherson

February 8, 2001

An act to amend Sections 1282.3 and 5536 of the Business and Professions Code, to amend Sections 670, 1036.2, and 1350 of the Evidence Code, to amend Section 11019.9 of the Government Code, to amend Sections 11362.9, ~~11372~~, 11372.7, 11550, 11573.5, 42400.1, 42400.2, 42400.3, 42402.1, 42402.2, 42402.3, and 109580 of the Health and Safety Code, to amend Sections 28, 182, 186.11, 186.22, 186.26, 243.1, 312.1, 320.5, 368, 466, 481.1, 530.7, 593d, 593e, 645, 646.93, 666.7, 667.7, 670, 778a, 933.06, 1170.11, 1174.4, 1203.044, 1203.097, 1280.1, 1382, 2677, 2717.4, 3000, 3000.1, 3058.9, 4011.1, 6008, 6126.5, 6236, 7012, 11180, 11418, ~~12021~~, 12022.53, 12094, 12288, and 13519.4 of, to amend and renumber Sections 113, 597.2, 1511, and 5058.5 of, and to amend and renumber the heading of Title 10.5 (commencing with Section 14150) of Part 4 of, the Penal Code, to amend Section 19705 of the Revenue and Taxation Code, to amend Sections 1808.21, 13202.4, and 22658.1 of the Vehicle Code, and to amend Sections 302, 319.1, 367, 602, 635.1, and 5270.55 of, to amend and renumber Sections 602.5 and 730.7 of, and to amend and renumber the heading of Article 18.5 (commencing with Section 743) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to crime, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 205, as amended, McPherson. Crime.

Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This bill would make numerous, nonsubstantive changes to clarify and update these provisions.

The bill would also make various technical revisions.

~~Existing law prohibits certain persons, as specified, from owning or possessing a firearm.~~

~~This bill would revise these provisions to include a person who attempts to own or possess a firearm, under certain circumstances, as specified. By revising the definition of a crime, the bill would impose a state-mandated local program.~~

This bill would amend an initiative statute that provides its provisions may be amended by the Legislature by a $\frac{2}{3}$ vote of the membership of each house, and therefore requires a $\frac{2}{3}$ vote.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: ~~yes~~—no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1282.3 of the Business and Professions
- 2 Code is amended to read:
- 3 1282.3. (a) It is unlawful for any person to act with willful or
- 4 wanton disregard for a person's safety that exposes the person to
- 5 a substantial risk of, or that causes, great bodily injury by affecting
- 6 the integrity of a clinical laboratory test or examination result
- 7 through improper collection, handling, storage, or labeling of the
- 8 biological specimen or the erroneous transcription or reporting of
- 9 clinical laboratory test or examination results.
- 10 (b) Notwithstanding Section 1287, a violation of this section
- 11 shall be punished as follows:
- 12 (1) A first conviction is punishable by imprisonment in ~~a~~ *the*
- 13 county jail for a period of not more than one year, or by

1 imprisonment in a state prison for 16 months, or two or three years,
2 by a fine not exceeding fifty thousand dollars (\$50,000), or by both
3 this fine and imprisonment.

4 (2) A second or subsequent conviction is punishable by
5 imprisonment in the state prison for two, four, or six years, *or* by
6 a fine not exceeding fifty thousand dollars (\$50,000), or by both
7 this fine and imprisonment.

8 (c) The enforcement remedies provided under this section are
9 not exclusive, and shall not preclude the use of any other criminal
10 or civil remedy. However, an act or omission punishable in
11 different ways by this section and any other provision of law shall
12 not be punished under more than one provision. Under those
13 circumstances, the penalty to be imposed shall be determined as set
14 forth in Section 654 of the Penal Code.

15 SEC. 2. Section 5536 of the Business and Professions Code
16 is amended to read:

17 5536. (a) It is a misdemeanor, punishable by a fine of not less
18 than one hundred dollars (\$100) nor more than five thousand
19 dollars (\$5,000), or by imprisonment in a county jail not exceeding
20 one year, or by both that fine and imprisonment, for any person
21 who is not licensed to practice architecture under this chapter to
22 practice architecture in this state, to use any term confusingly
23 similar to the word architect, to use the stamp of a licensed
24 architect, as provided in Section 5536.1, or to advertise or put out
25 any sign or card or other device that might indicate to the public
26 that he or she is an architect, that he or she is qualified to engage
27 in the practice of architecture, or that he or she is an architectural
28 designer.

29 (b) It is a misdemeanor, punishable as specified in subdivision
30 (a), for any person who is not licensed to practice architecture
31 under this chapter to affix a stamp or seal that bears the legend
32 “State of California” or words or symbols that represent or imply
33 that the person is so licensed by the state to prepare plans,
34 specifications, or instruments of service.

35 (c) It is a misdemeanor, punishable as specified in subdivision
36 (a), for any person to advertise or represent that he or she is a
37 “registered building designer” or is registered or otherwise
38 licensed by the state as a building designer.

39 SEC. 3. Section 670 of the Evidence Code is amended to read:

670. (a) In any dispute concerning payment by means of a check, a copy of the check produced in accordance with Section 1550 of the Evidence Code, together with the original bank statement that reflects payment of the check by the bank on which it was drawn or a copy thereof produced in the same manner, creates a presumption that the check has been paid.

(b) As used in this section:

(1) “Bank” means any person engaged in the business of banking and includes, in addition to a commercial bank, a savings and loan association, savings bank, or credit union.

(2) “Check” means a draft, other than a documentary draft, payable on demand and drawn on a bank, even though it is described by another term, such as “share draft” or “negotiable order of withdrawal.”

SEC. 4. Section 1036.2 of the Evidence Code is amended to read:

1036.2. As used in this article, “sexual assault” includes all of the following:

(a) Rape, as defined in Section 261 of the Penal Code.

(b) Unlawful sexual intercourse, as defined in Section 261.5 of the Penal Code.

(c) Rape in concert with force and violence, as defined in Section 264.1 of the Penal Code.

(d) Rape of a spouse, as defined in Section 262 of the Penal Code.

(e) Sodomy, as defined in Section 286 of the Penal Code, except a violation of subdivision (e) of that section.

(f) A violation of Section 288 of the Penal Code.

(g) Oral copulation, as defined in Section 288a of the Penal Code, except a violation of subdivision (e) of that section.

(h) Sexual penetration, as defined in Section 289 of the Penal Code.

(i) Annoying or molesting a child under 18, as defined in Section 647a of the Penal Code.

(j) Any attempt to commit any of the above acts.

SEC. 5. Section 1350 of the Evidence Code is amended to read:

1350. (a) In a criminal proceeding charging a serious felony, evidence of a statement made by a declarant is not made

1 inadmissible by the hearsay rule if the declarant is unavailable as
2 a witness, and all of the following are true:

3 (1) There is clear and convincing evidence that the declarant's
4 unavailability was knowingly caused by, aided by, or solicited by
5 the party against whom the statement is offered for the purpose of
6 preventing the arrest or prosecution of the party and is the result
7 of the death by homicide or the kidnapping of the declarant.

8 (2) There is no evidence that the unavailability of the declarant
9 was caused by, aided by, solicited by, or procured on behalf of, the
10 party who is offering the statement.

11 (3) The statement has been memorialized in a tape recording
12 made by a law enforcement official, or in a written statement
13 prepared by a law enforcement official and signed by the declarant
14 and notarized in the presence of the law enforcement official, prior
15 to the death or kidnapping of the declarant.

16 (4) The statement was made under circumstances which
17 indicate its trustworthiness and was not the result of promise,
18 inducement, threat, or coercion.

19 (5) The statement is relevant to the issues to be tried.

20 (6) The statement is corroborated by other evidence which
21 tends to connect the party against whom the statement is offered
22 with the commission of the serious felony with which the party is
23 charged. The corroboration is not sufficient if it merely shows the
24 commission of the offense or the circumstances thereof.

25 (b) If the prosecution intends to offer a statement pursuant to
26 this section, the prosecution shall serve a written notice upon the
27 defendant at least 10 days prior to the hearing or trial at which the
28 prosecution intends to offer the statement, unless the prosecution
29 shows good cause for the failure to provide that notice. In the event
30 that good cause is shown, the defendant shall be entitled to a
31 reasonable continuance of the hearing or trial.

32 (c) If the statement is offered during trial, the court's
33 determination shall be made out of the presence of the jury. If the
34 defendant elects to testify at the hearing on a motion brought
35 pursuant to this section, the court shall exclude from the
36 examination every person except the clerk, the court reporter, the
37 bailiff, the prosecutor, the investigating officer, the defendant and
38 his or her counsel, an investigator for the defendant, and the officer
39 having custody of the defendant. Notwithstanding any other
40 provision of law, the defendant's testimony at the hearing shall not



1 be admissible in any other proceeding except the hearing brought
2 on the motion pursuant to this section. If a transcript is made of the
3 defendant's testimony, it shall be sealed and transmitted to the
4 clerk of the court in which the action is pending.

5 (d) As used in this section, "serious felony" means any of the
6 felonies listed in subdivision (c) of Section 1192.7 of the Penal
7 Code or any violation of Section 11351, 11352, 11378, or 11379
8 of the Health and Safety Code.

9 (e) If a statement to be admitted pursuant to this section
10 includes hearsay statements made by anyone other than the
11 declarant who is unavailable pursuant to subdivision (a), those
12 hearsay statements are inadmissible unless they meet the
13 requirements of an exception to the hearsay rule.

14 SEC. 6. Section 11019.9 of the Government Code is amended
15 to read:

16 11019.9. Each state department and state agency shall enact
17 and maintain a permanent privacy policy, in adherence with the
18 Information Practices Act of 1977 (Title 1.8 (commencing with
19 Section 1798) of Part 4 of Division 3 of the Civil Code), that
20 includes, but is not limited to, the following principles:

21 (a) Personally identifiable information is only obtained
22 through lawful means.

23 (b) The purposes for which personally identifiable data are
24 collected are specified at or prior to the time of collection, and any
25 subsequent use is limited to the fulfillment of purposes not
26 inconsistent with those purposes previously specified.

27 (c) Personal data shall not be disclosed, made available, or
28 otherwise used for purposes other than those specified, except with
29 the consent of the subject of the data, or as authorized by law or
30 regulation.

31 (d) Personal data collected must be relevant to the purpose for
32 which it is collected.

33 (e) The general means by which personal data is protected
34 against loss, unauthorized access, use modification or disclosure
35 shall be posted, unless that disclosure of general means would
36 compromise legitimate state department or state agency objectives
37 or law enforcement purposes.

38 (f) Each state department or state agency shall designate a
39 position within the department or agency, the duties of which shall

1 include, but not be limited to, responsibility for the privacy policy
2 within that department or agency.

3 SEC. 7. Section 11362.9 of the Health and Safety Code is
4 amended to read:

5 11362.9. (a) (1) It is the intent of the Legislature that the
6 state commission objective scientific research by the premier
7 research institute of the world, the University of California,
8 regarding the efficacy and safety of administering marijuana as
9 part of medical treatment. If the Regents of the University of
10 California, by appropriate resolution, accept this responsibility,
11 the University of California shall create a three-year program, to
12 be known as the California Marijuana Research Program.

13 (2) The program shall develop and conduct studies intended to
14 ascertain the general medical safety and efficacy of marijuana and,
15 if found valuable, shall develop medical guidelines for the
16 appropriate administration and use of marijuana.

17 (b) The program may immediately solicit proposals for
18 research projects to be included in the marijuana studies. Program
19 requirements to be used when evaluating responses to its
20 solicitation for proposals, shall include, but not be limited to, all
21 of the following:

22 (1) Proposals shall demonstrate the use of key personnel,
23 including clinicians or scientists and support personnel, who are
24 prepared to develop a program of research regarding marijuana's
25 general medical efficacy and safety.

26 (2) Proposals shall contain procedures for outreach to patients
27 with various medical conditions who may be suitable participants
28 in research on marijuana.

29 (3) Proposals shall contain provisions for a patient registry.

30 (4) Proposals shall contain provisions for an information
31 system that is designed to record information about possible study
32 participants, investigators, and clinicians, and deposit and analyze
33 data that accrues as part of clinical trials.

34 (5) Proposals shall contain protocols suitable for research on
35 marijuana, addressing patients diagnosed with the acquired
36 immunodeficiency syndrome (AIDS) or the human
37 immunodeficiency virus (HIV), cancer, glaucoma, or seizures or
38 muscle spasms associated with a chronic, debilitating condition.
39 The proposal may also include research on other serious illnesses,

1 provided that resources are available and medical information
2 justifies the research.

3 (6) Proposals shall demonstrate the use of a specimen
4 laboratory capable of housing plasma, urine, and other specimens
5 necessary to study the concentration of cannabinoids in various
6 tissues, as well as housing specimens for studies of toxic effects of
7 marijuana.

8 (7) Proposals shall demonstrate the use of a laboratory capable
9 of analyzing marijuana, provided to the program under this
10 section, for purity and cannabinoid content and the capacity to
11 detect contaminants.

12 (c) In order to ensure objectivity in evaluating proposals, the
13 program shall use a peer review process that is modeled on the
14 process used by the National Institutes of Health, and that guards
15 against funding research that is biased in favor of or against
16 particular outcomes. Peer reviewers shall be selected for their
17 expertise in the scientific substance and methods of the proposed
18 research, and their lack of bias or conflict of interest regarding the
19 applicants or the topic of an approach taken in the proposed
20 research. Peer reviewers shall judge research proposals on several
21 criteria, foremost among which shall be both of the following:

22 (1) The scientific merit of the research plan, including whether
23 the research design and experimental procedures are potentially
24 biased for or against a particular outcome.

25 (2) Researchers' expertise in the scientific substance and
26 methods of the proposed research, and their lack of bias or conflict
27 of interest regarding the topic of, and the approach taken in, the
28 proposed research.

29 (d) If the program is administered by the Regents of the
30 University of California, any grant research proposals approved
31 by the program shall also require review and approval by the
32 research advisory panel.

33 (e) It is the intent of the Legislature that the program be
34 established as follows:

35 (1) The program shall be located at one or more University of
36 California campuses that have a core of faculty experienced in
37 organizing multidisciplinary scientific endeavors and, in
38 particular, strong experience in clinical trials involving
39 psychopharmacologic agents. The campuses at which research
40 under the auspices of the program is to take place shall

1 accommodate the administrative offices, including the director of
2 the program, as well as a data management unit, and facilities for
3 storage of specimens.

4 (2) When awarding grants under this section, the program shall
5 utilize principles and parameters of the other well-tested statewide
6 research programs administered by the University of California,
7 modeled after programs administered by the National Institutes of
8 Health, including peer review evaluation of the scientific merit of
9 applications.

10 (3) The scientific and clinical operations of the program shall
11 occur, partly at University of California campuses, and partly at
12 other postsecondary institutions, that have clinicians or scientists
13 with expertise to conduct the required studies. Criteria for
14 selection of research locations shall include the elements listed in
15 subdivision (b) and, additionally, shall give particular weight to
16 the organizational plan, leadership qualities of the program
17 director, and plans to involve investigators and patient populations
18 from multiple sites.

19 (4) The funds received by the program shall be allocated to
20 various research studies in accordance with a scientific plan
21 developed by the Scientific Advisory Council. As the first wave
22 of studies is completed, it is anticipated that the program will
23 receive requests for funding of additional studies. These requests
24 shall be reviewed by the Scientific Advisory Council.

25 (5) The size, scope, and number of studies funded shall be
26 commensurate with the amount of appropriated and available
27 program funding.

28 (f) All personnel involved in implementing approved
29 proposals shall be authorized as required by Section 11604.

30 (g) Studies conducted pursuant to this section shall include the
31 greatest amount of new scientific research possible on the medical
32 uses of, and medical hazards associated with, marijuana. The
33 program shall consult with the Research Advisory Panel
34 analogous agencies in other states, and appropriate federal
35 agencies in an attempt to avoid duplicative research and the
36 wasting of research dollars.

37 (h) The program shall make every effort to recruit qualified
38 patients and qualified physicians from throughout the state.

39 (i) The marijuana studies shall employ state-of-the-art research
40 methodologies.

(j) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.

(2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the

1 National Institutes of Health issues research protocol guidelines,
2 comply with those guidelines.

3 (2) If, after a reasonable period of time of not less than six
4 months and not more than a year has elapsed from the date the
5 program seeks to obtain guidelines pursuant to paragraph (1), no
6 guidelines have been approved, the program may proceed using
7 the research protocol guidelines it develops.

8 (n) In order to maximize the scope and size of the marijuana
9 studies, the program may do any of the following:

10 (1) Solicit, apply for, and accept funds from foundations,
11 private individuals, and all other funding sources that can be used
12 to expand the scope or timeframe of the marijuana studies that are
13 authorized under this section. The program shall not expend more
14 than 5 percent of its General Fund allocation in efforts to obtain
15 money from outside sources.

16 (2) Include within the scope of the marijuana studies other
17 marijuana research projects that are independently funded and that
18 meet the requirements set forth in subdivisions (a) to (c), inclusive.
19 In no case shall the program accept any funds that are offered with
20 any conditions other than that the funds be used to study the
21 efficacy and safety of marijuana as part of medical treatment. Any
22 donor shall be advised that funds given for purposes of this section
23 will be used to study both the possible benefits and detriments of
24 marijuana and that he or she will have no control over the use of
25 these funds.

26 (o) (1) Within six months of the effective date of this section,
27 the program shall report to the Legislature, the Governor, and the
28 Attorney General on the progress of the marijuana studies.

29 (2) Thereafter, the program shall issue a report to the
30 Legislature every six months detailing the progress of the studies.
31 The interim reports required under this paragraph shall include,
32 but not be limited to, data on all of the following:

33 (A) The names and number of diseases or conditions under
34 study.

35 (B) The number of patients enrolled in each study by disease.

36 (C) Any scientifically valid preliminary findings.

37 (p) If the Regents of the University of California implement
38 this section, the President of the University of California shall
39 appoint a multidisciplinary Scientific Advisory Council, not to
40 exceed 15 members, to provide policy guidance in the creation and

1 implementation of the program. Members shall be chosen on the
2 basis of scientific expertise. Members of the council shall serve on
3 a voluntary basis, with reimbursement for expenses incurred in the
4 course of their participation. The members shall be reimbursed for
5 travel and other necessary expenses incurred in their performance
6 of the duties of the council.

7 (q) No more than 10 percent of the total funds appropriated be
8 used for all aspects of the administration of this section.

9 (r) This section shall be implemented only to the extent that
10 funding for its purposes is appropriated by the Legislature in the
11 annual Budget Act.

12 ~~SEC. 8. Section 11372 of the Health and Safety Code is~~
13 ~~amended to read:~~

14 ~~11372. (a) In addition to the term of imprisonment provided~~
15 ~~by law for persons convicted of violating Section 11350, 11351,~~
16 ~~11351.5, 11352, 11353, 11355, 11359, 11360, or 11361, the trial~~
17 ~~court may impose a fine not exceeding twenty thousand dollars~~
18 ~~(\$20,000) for each offense. In no event shall a fine be levied in lieu~~
19 ~~of or in substitution for the term of imprisonment provided by law~~
20 ~~for these offenses.~~

21 ~~(b) Any person receiving an additional term pursuant to~~
22 ~~paragraph (1) of subdivision (a) of Section 11370.4, may, in~~
23 ~~addition, be fined an amount not exceeding one million dollars~~
24 ~~(\$1,000,000) for each offense.~~

25 ~~(c) Any person receiving an additional term pursuant to~~
26 ~~paragraph (2) of subdivision (a) of Section 11370.4, may, in~~
27 ~~addition, be fined an amount not to exceed four million dollars~~
28 ~~(\$4,000,000) for each offense.~~

29 ~~(d) Any person receiving an additional term pursuant to~~
30 ~~paragraph (3), (4), (5), or (6) of subdivision (a) of Section 11370.4,~~
31 ~~may, in addition, be fined by an amount not to exceed eight million~~
32 ~~dollars (\$8,000,000) for each offense.~~

33 ~~(e) The court shall make a finding, prior to the imposition of the~~
34 ~~finer authorized by subdivisions (b) to (e), inclusive, that there is~~
35 ~~a reasonable expectation that the fine, or a substantial portion~~
36 ~~thereof, could be collected within a reasonable period of time,~~
37 ~~taking into consideration the defendant's income, earning~~
38 ~~capacity, and financial resources.~~

39 ~~SEC. 9.~~

SEC. 8. Section 11372.7 of the Health and Safety Code is amended to read:

11372.7. (a) Except as otherwise provided in subdivision (b) or (f), each person who is convicted of a violation of this chapter shall pay a drug program fee in an amount not to exceed one hundred fifty dollars (\$150) for each separate offense. The court shall increase the total fine, if necessary, to include this increment, which shall be in addition to any other penalty prescribed by law.

(b) The court shall determine whether or not the person who is convicted of a violation of this chapter has the ability to pay a drug program fee. If the court determines that the person has the ability to pay, the court may set the amount to be paid and order the person to pay that sum to the county in a manner that the court believes is reasonable and compatible with the person's financial ability. In its determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon that person and any amount that person has been ordered to pay in restitution. If the court determines that the person does not have the ability to pay a drug program fee, the person shall not be required to pay a drug program fee.

(c) The county treasurer shall maintain a drug program fund. For every drug program fee assessed and collected pursuant to subdivisions (a) and (b), an amount equal to this assessment shall be deposited into the fund for every conviction pursuant to this chapter, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Sections 11372.5 and 11502. These deposits shall be made prior to any transfer pursuant to Section 11502. Amounts deposited in the drug program fund shall be allocated by the administrator of the county's drug program to drug abuse programs in the schools and the community, subject to the approval of the board of supervisors, as follows:

(1) The moneys in the fund shall be allocated through the planning process established pursuant to Sections 11983, 11983.1, 11983.2, and 11983.3.

(2) A minimum of 33 percent of the fund shall be allocated to primary prevention programs in the schools and the community. Primary prevention programs developed and implemented under this article shall emphasize cooperation in planning and program implementation among schools and community drug abuse

1 agencies, and shall demonstrate coordination through an
2 interagency agreement among county offices of education, school
3 ~~district~~ *districts*, and the county drug program administrator.
4 These primary prevention programs may include:

5 (A) School- and classroom-oriented programs, including, but
6 not limited to, programs designed to encourage sound
7 decisionmaking, an awareness of values, an awareness of drugs
8 and their effects, enhanced self-esteem, social and practical skills
9 that will assist students toward maturity, enhanced or improved
10 school climate and relationships among all school personnel and
11 students, and furtherance of cooperative efforts of school- and
12 community-based personnel.

13 (B) School- or community-based nonclassroom alternative
14 programs, or both, including, but not limited to, positive peer
15 group programs, programs involving youth and adults in
16 constructive activities designed as alternatives to drug use, and
17 programs for special target groups, such as women, ethnic
18 minorities, and other high-risk, high-need populations.

19 (C) Family-oriented programs, including, but not limited to,
20 programs aimed at improving family relationships and involving
21 parents constructively in the education and nurturing of their
22 children, as well as in specific activities aimed at preventing drug
23 abuse.

24 (d) Moneys deposited into a county drug program fund
25 pursuant to this section shall supplement, and shall not supplant,
26 any local funds made available to support the county's drug abuse
27 prevention and treatment efforts.

28 (e) Five percent of the money allocated to primary prevention
29 programs in schools and communities within the county pursuant
30 to paragraph (2) of subdivision (c) shall be used for the purpose of
31 conducting an annual evaluation. The annual evaluation shall be
32 conducted by the office of the county superintendent of schools in
33 counties where the program is operating in a single county or in the
34 office of the county superintendent of schools in the county
35 designated as the lead county in counties where the program is
36 operating as a consortium of counties. The evaluation shall contain
37 the following:

38 (1) A needs assessment evaluation which provides specific data
39 regarding the problem to be resolved.

(2) A written report of the planning process outlining the deliberations, considerations, and conclusions following a review of the needs assessment.

(3) An end of fiscal year accountability evaluation that will indicate the program's continuing ability to reach appropriate program beneficiaries, deliver the appropriate benefits, and use funds appropriately.

(4) An impact evaluation charged with the task of assessing the effectiveness of the program. Guidelines for the evaluation report format and the timeliness for the submission of the report shall be developed by the State Department of Education. Each county shall submit an evaluation report annually to the State Department of Education and the State Department of Education shall write and submit a report to the Legislature and Governor.

(f) This section shall not apply to any person convicted of a violation of subdivision (b) of Section 11357 of the Health and Safety Code.

~~SEC. 10.~~

SEC. 9. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in a county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and, except as provided in subdivision (c), shall in all cases in which probation is granted require, as a condition thereof, that the person be confined in a county jail for at least 90 days. Other than as provided by subdivision (c), in no event shall the court have the power to

1 absolve a person who violates this subdivision from the obligation
2 of spending at least 90 days in confinement in a county jail.

3 (b) Any person who (1) is convicted of violating subdivision
4 (a) when the offense occurred within seven years of that person
5 being convicted of two or more separate violations of that
6 subdivision ~~or of subdivision (c)~~, and (2) refuses to complete a
7 licensed drug rehabilitation program offered by the court pursuant
8 to subdivision (c), shall be punished by imprisonment in a county
9 jail for not less than 180 days nor more than one year. In no event
10 does the court have the power to absolve a person convicted of a
11 violation of subdivision (a) that is punishable under this
12 subdivision from the obligation of spending at least 180 days in
13 confinement in a county jail unless there are no licensed drug
14 rehabilitation programs reasonably available.

15 For the purpose of this section, a drug rehabilitation program
16 shall not be considered reasonably available unless the person is
17 required to pay no more than the court determines that he or she
18 is reasonably able to pay, in order to participate in the program.

19 (c) The court may, when it would be in the interest of justice,
20 permit any person convicted of a violation of subdivision (a)
21 punishable under subdivision (a) or (b) to complete a licensed drug
22 rehabilitation program in lieu of part or all of the imprisonment in
23 the county jail. As a condition of sentencing, the court may require
24 the offender to pay all or a portion of the drug rehabilitation
25 program.

26 In order to alleviate jail overcrowding and to provide recidivist
27 offenders with a reasonable opportunity to seek rehabilitation
28 pursuant to this subdivision, counties are encouraged to include
29 provisions to augment licensed drug rehabilitation programs in
30 their substance abuse proposals and applications submitted to the
31 state for federal and state drug abuse funds.

32 (d) In addition to any fine assessed under this section, the judge
33 may assess a fine not to exceed seventy dollars (\$70) against any
34 person who violates this section, with the proceeds of this fine to
35 be used in accordance with Section 1463.23 of the Penal Code. The
36 court shall, however, take into consideration the defendant's
37 ability to pay, and no defendant shall be denied probation because
38 of his or her inability to pay the fine permitted under this
39 subdivision.

(e) Notwithstanding subdivisions (a) and (b) or any other provision of law, any person who is unlawfully under the influence of cocaine, cocaine base, heroin, methamphetamine, or phencyclidine while in the immediate personal possession of a loaded, operable firearm is guilty of a public offense punishable by imprisonment in a county jail for not exceeding one year or in state prison.

As used in this subdivision “immediate personal possession” includes, but is not limited to, the interior passenger compartment of a motor vehicle.

(f) Every person who violates subdivision (e) is punishable upon the second and each subsequent conviction by imprisonment in the state prison for two, three, or four years.

(g) Nothing in this section prevents deferred entry of judgment *or a defendant’s participation in a preguilty plea drug court program* under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code or with a violation of subdivision (e) shall be ineligible for deferred entry of judgment *or a preguilty plea drug court program*.

~~SEC. 11.~~

SEC. 10. Section 11573.5 of the Health and Safety Code is amended to read:

11573.5. (a) At the time of application for issuance of a temporary writ pursuant to Section 11573, if proof of the existence of the nuisance depends, in whole or part, upon the affidavits of witnesses who are not peace officers, upon a showing of prior threats of violence or acts of violence by any defendant or other person, the court may issue orders to protect those witnesses, including, but not limited to, nondisclosure of the name, address, or any other information which may identify those witnesses.

(b) A temporary writ issued pursuant to Section 11573 may include closure of the premises pending trial when a prior writ does not result in the abatement of the nuisance. The duration of the writ shall be within the court’s discretion. In no event shall the total

1 period of closure pending trial exceed one year. Prior to ruling on
2 a request for closure the court may order that some or all of the rent
3 payments owing to the defendant be placed in an escrow account
4 for a period of up to 90 days or until the nuisance is abated. If the
5 court subsequently orders a closure of the premises, the money in
6 the escrow account shall be used to pay for relocation assistance
7 pursuant to subdivision (d). In ruling upon a request for closure,
8 whether for a defined or undefined duration, the court shall
9 consider all of the following factors:

10 (1) The extent and duration of the nuisance at the time of the
11 request.

12 (2) Prior efforts by the defendant to comply with previous court
13 orders to abate the nuisance.

14 (3) The nature and extent of any effect which the nuisance has
15 upon other persons, such as residents or businesses.

16 (4) Any effect of prior orders placing displaced residents' or
17 occupants' rent payments into an escrow account upon the
18 defendant's efforts to abate the nuisance.

19 (5) The effect of granting the request upon any resident or
20 occupant of the premises who is not named in the action, including
21 the availability of alternative housing or relocation assistance, the
22 pendency of any action to evict a resident or occupant, and any
23 evidence of participation by a resident or occupant in the nuisance
24 activity.

25 (c) In making an order of closure pursuant to this section, the
26 court may order the premises vacated and may issue any other
27 orders necessary to effectuate the closure. However, all tenants
28 who may be affected by the order shall be provided reasonable
29 notice and an opportunity to be heard at all hearings regarding the
30 closure request prior to the issuance of any order.

31 (d) In making an order of closure pursuant to this section, the
32 court shall order the defendant to provide relocation assistance to
33 any tenant ordered to vacate the premises, provided the court
34 determines that the tenant was not actively involved in the
35 nuisance activity. The relocation assistance ordered to be paid by
36 the defendant shall be in the amount necessary to cover moving
37 costs, security deposits for utilities and comparable housing,
38 adjustment in any lost rent, and any other reasonable expenses the
39 court may deem fair and reasonable as a result of the court's order.

(e) At the hearing to order closure pursuant to this section, the court may make the following orders with respect to any displaced tenant not actively involved in the nuisance:

(1) Priority for senior citizens, physically handicapped persons, or persons otherwise suffering from a permanent or temporary disability for claims against money for relocation assistance.

(2) Order the local agency seeking closure pursuant to this section to make reasonable attempts to seek additional sources of funds for relocation assistance to displaced tenants, if deemed necessary.

(3) Appoint a receiver to oversee the disbursement of relocation assistance funds, whose services shall be paid from the escrow fund.

(4) Where a defendant has paid relocation assistance pursuant to subdivision (d), the escrow account under subdivision (b) may be released to the defendant and no appointment under paragraph (3) shall be made.

(f) (1) The remedies set forth pursuant to this section shall be in addition to any other existing remedies for nuisance abatement actions, including, but not limited to, the following:

(A) Capital improvements to the property, such as security gates.

(B) Improved interior or exterior lighting.

(C) Security guards.

(D) Posting of signs.

(E) Owner membership in neighborhood or local merchants' associations.

(F) Attending property management training programs.

(G) Making cosmetic improvements to the property.

(2) At all stages of an action brought pursuant to this article, the court has equitable powers to order steps necessary to remedy the problem and enhance the abatement process.

~~SEC. 12.~~

SEC. 11. Section 42400.1 of the Health and Safety Code is amended to read:

42400.1. (a) Any person who negligently emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district pertaining to emission regulations or limitations is guilty of a

1 misdemeanor and is subject to a fine of not more than twenty-five
2 thousand dollars (\$25,000), or imprisonment in a county jail for
3 not more than nine months, or *by both that fine and imprisonment.*

4 (b) Any person who negligently emits an air contaminant in
5 violation of Section 41700 that causes great bodily injury, as
6 defined by Section 12022.7 of the Penal Code, to, or death of, any
7 person, is guilty of a misdemeanor and is subject to a fine of not
8 more than one hundred thousand dollars (\$100,000), or
9 imprisonment in a county jail for not more than one year, or *by both*
10 *that fine and imprisonment.*

11 (c) Each day during any portion of which a violation occurs is
12 a separate offense.

13 ~~SEC. 13.~~

14 *SEC. 12.* Section 42400.2 of the Health and Safety Code is
15 amended to read:

16 42400.2. (a) Any person who emits an air contaminant in
17 violation of any provision of this part, or any order, rule,
18 regulation, or permit of the state board or of a district pertaining
19 to emission regulations or limitations, and who knew of the
20 emission and failed to take corrective action within a reasonable
21 period of time under the circumstances, is guilty of a misdemeanor
22 and is subject to a fine of not more than forty thousand dollars
23 (\$40,000), or imprisonment in a county jail for not more than one
24 year, or *by both that fine and imprisonment.*

25 (b) For purposes of this section, “corrective action” means the
26 termination of the emission violation or the grant of a variance
27 from the applicable order, rule, regulation, or permit pursuant to
28 Article 2 (commencing with Section 42350). If a district
29 regulation regarding process upsets or equipment breakdowns
30 would allow continued operation of equipment which is emitting
31 air contaminants in excess of allowable limits, compliance with
32 that regulation is deemed to be corrective action.

33 (c) Any person who owns or operates any source of air
34 contaminants in violation of Section 41700 that causes great
35 bodily injury, as defined by Section 12022.7 of the Penal Code, to,
36 or death of, any person, and who knew of the emission and failed
37 to take corrective action within a reasonable period of time under
38 the circumstances, is guilty of a misdemeanor and is subject to a
39 fine of not more than two hundred fifty thousand dollars

1 (\$250,000), or imprisonment in a county jail for not more than one
2 year, or by both *that fine and imprisonment*.

3 (d) Each day during any portion of which a violation occurs
4 constitutes a separate offense.

5 ~~SEC. 14.~~

6 *SEC. 13.* Section 42400.3 of the Health and Safety Code is
7 amended to read:

8 42400.3. (a) Any person who willfully and intentionally
9 emits an air contaminant in violation of any provision of this part
10 or any rule, regulation, permit, or order of the state board or of a
11 district, pertaining to emission regulations or limitations is guilty
12 of a misdemeanor and is subject to a fine of not more than
13 seventy-five thousand dollars (\$75,000), or imprisonment in a
14 county jail for not more than one year, or by both *that fine and*
15 *imprisonment*.

16 (b) Any person who willfully and intentionally, or with
17 reckless disregard for the risk of great bodily injury, as defined by
18 Section 12022.7 of the Penal Code, to, or death of, any person,
19 emits an air contaminant in violation of Section 41700 that results
20 in any unreasonable risk of great bodily injury to, or death of, any
21 person, is guilty of a public offense and is subject to a fine of not
22 more than one hundred twenty-five thousand dollars (\$125,000),
23 or imprisonment in a county jail for not more than one year, or by
24 both *that fine and imprisonment*. However, if the defendant is a
25 corporation, the maximum fine may be up to five hundred
26 thousand dollars (\$500,000).

27 (c) Any person who willfully and intentionally, or with reckless
28 disregard for the risk of great bodily injury, as defined by Section
29 12022.7 of the Penal Code, to, or death of, any person; emits an air
30 contaminant in violation of Section 41700 that causes great bodily
31 injury to, or death of, any person is guilty of a public offense, and
32 is subject to a fine of not more than two hundred fifty thousand
33 dollars (\$250,000) or imprisonment in the county jail for not more
34 than one year, or by both *that fine and imprisonment*, or is subject
35 to a fine of not more than two hundred fifty thousand dollars
36 (\$250,000), or by imprisonment in a state prison, or both *that fine*
37 *and imprisonment*. If the defendant is a corporation, the maximum
38 fine may be up to one million dollars (\$1,000,000).

39 (d) Each day during any portion of which a violation occurs
40 constitutes a separate offense.

(e) This section does not preclude punishment under Section 189 or 192 of the Penal Code or any other provision of law that provides a more severe punishment.

(f) For the purposes of this section:

(1) “Great bodily injury” means great bodily injury as defined by Section 12022.7 of the Penal Code.

(2) “Imprisonment in state prison” means imprisonment in the state prison for 16 months, or two or three years.

(3) “Unreasonable risk of great bodily injury or death” means substantial probability of great bodily injury or death.

~~SEC. 15.~~

SEC. 14. Section 42402.1 of the Health and Safety Code is amended to read:

42402.1. (a) Any person who negligently emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000).

(b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).

(c) Each day during any portion of which a violation occurs is a separate offense.

~~SEC. 16.~~

SEC. 15. Section 42402.2 of the Health and Safety Code is amended to read:

42402.2. (a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty of not more than forty thousand dollars (\$40,000).

(b) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great

1 bodily injury, as defined by Section 12022.7 of the Penal Code, to
2 any person or that causes the death of any person, and who knew
3 of the emission and failed to take corrective action, as defined in
4 subdivision (b) of Section 42400.2, within a reasonable period of
5 time under the circumstances, is liable for a civil penalty not to
6 exceed two hundred fifty thousand dollars (\$250,000).

7 (c) Each day during any portion of which a violation occurs is
8 a separate offense.

9 ~~SEC. 17.~~

10 *SEC. 16.* Section 42402.3 of the Health and Safety Code is
11 amended to read:

12 42402.3. (a) Any person who willfully and intentionally
13 emits an air contaminant in violation of this part or any rule,
14 regulation, permit, or order of the state board, or of a district,
15 including a district hearing board, pertaining to emission
16 regulations or limitations, is liable for a civil penalty of not more
17 than seventy-five thousand dollars (\$75,000).

18 (b) Any person who willfully and intentionally, or with
19 reckless disregard for the risk of great bodily injury, as defined by
20 Section 12022.7 of the Penal Code, to, or death of, any person,
21 emits an air contaminant in violation of Section 41700 that results
22 in an unreasonable risk of great bodily injury to, or death of, any
23 person, is liable for a civil penalty of not more than one hundred
24 twenty-five thousand dollars (\$125,000). If the violator is a
25 corporation, the maximum penalty may be up to five hundred
26 thousand dollars (\$500,000).

27 (c) Any person who willfully and intentionally, or with reckless
28 disregard for the risk of great bodily injury, as defined by Section
29 12022.7 of the Penal Code, to, or death of, any person, emits an air
30 contaminant in violation of Section 41700 that causes great bodily
31 injury, as defined by Section 12022.7 of the Penal Code, to any
32 person or that causes the death of any person, is liable for a civil
33 penalty of not more than two hundred fifty thousand dollars
34 (\$250,000). If the violator is a corporation, the maximum penalty
35 may be up to one million dollars (\$1,000,000).

36 (d) Each day during any portion of which a violation occurs is
37 a separate offense.

38 ~~SEC. 18.~~

39 *SEC. 17.* Section 109580 of the Health and Safety Code is
40 amended to read:

1 109580. Any person 18 years of age or over who violates
2 Section 109575 by knowingly distributing an imitation controlled
3 substance to a person under 18 years of age is guilty of a
4 misdemeanor and shall, if convicted, be subject to imprisonment
5 for not more than one year in a county jail or a fine of not more than
6 two thousand dollars (\$2,000), or *by both* ~~the~~ *that* imprisonment
7 and fine. Upon a second or subsequent conviction of this offense,
8 the person shall be subject to imprisonment for not more than one
9 year in a county jail and a fine of not less than six thousand dollars
10 (\$6,000).

11 ~~SEC. 19.~~

12 *SEC. 18.* Section 28 of the Penal Code is amended to read:

13 28. (a) Evidence of mental disease, mental defect, or mental
14 disorder shall not be admitted to show or negate the capacity to
15 form any mental state, including, but not limited to, purpose,
16 intent, knowledge, premeditation, deliberation, or malice
17 aforethought, with which the accused committed the act. Evidence
18 of mental disease, mental defect, or mental disorder is admissible
19 solely on the issue of whether or not the accused actually formed
20 a required specific intent, premeditated, deliberated, or harbored
21 malice aforethought, when a specific intent crime is charged.

22 (b) As a matter of public policy there shall be no defense of
23 diminished capacity, diminished responsibility, or irresistible
24 impulse in a criminal action or juvenile adjudication hearing.

25 (c) This section shall not be applicable to an insanity hearing
26 pursuant to Section 1026 or 1429.5.

27 (d) Nothing in this section shall limit a court's discretion,
28 pursuant to the Evidence Code, to exclude psychiatric or
29 psychological evidence on whether the accused had a mental
30 disease, mental defect, or mental disorder at the time of the alleged
31 offense.

32 ~~SEC. 20.~~

33 *SEC. 19.* Section 113 of the Penal Code, as added by Chapter
34 17 of the Statutes of 1994, 1st Extraordinary Session, is amended
35 and renumbered to read:

36 112. (a) Any person who manufactures or sells any false
37 government document with the intent to conceal the true
38 citizenship or resident alien status of another person is guilty of a
39 misdemeanor and shall be punished by imprisonment in a county
40 jail for one year. Every false government document that is

1 manufactured or sold in violation of this section may be charged
2 and prosecuted as a separate and distinct violation, and
3 consecutive sentences may be imposed for each violation.

4 (b) A prosecuting attorney shall have discretion to charge a
5 defendant with a violation of this section or any other law that
6 applies.

7 (c) As used in this section, “government document” means
8 any document issued by the United States government or any state
9 or local government, including, but not limited to, any passport,
10 immigration visa, employment authorization card, birth
11 certificate, driver’s license, identification card, or social security
12 card.

13 ~~SEC. 21.~~

14 *SEC. 20.* Section 182 of the Penal Code is amended to read:

15 182. (a) If two or more persons conspire:

16 (1) To commit any crime.

17 (2) Falsely and maliciously to indict another for any crime,
18 or to procure another to be charged or arrested for any crime.

19 (3) Falsely to move or maintain any suit, action or
20 proceeding.

21 (4) To cheat and defraud any person of any property, by any
22 means which are in themselves criminal, or to obtain money or
23 property by false pretenses or by false promises with fraudulent
24 intent not to perform those promises.

25 (5) To commit any act injurious to the public health, to public
26 morals, or to pervert or obstruct justice, or the due
27 administration of the laws.

28 (6) To commit any crime against the person of the President
29 or Vice President of the United States, the governor of any state
30 or territory, any United States justice or judge, or the secretary
31 of any of the executive departments of the United States.

32 They are punishable as follows:

33 When they conspire to commit any crime against the person of
34 any official specified in paragraph (6), they are guilty of a felony
35 and are punishable by imprisonment in the state prison for five,
36 seven, or nine years.

37 When they conspire to commit any other felony, they shall be
38 punishable in the same manner and to the same extent as is
39 provided for the punishment of that felony. If the felony is one for
40 which different punishments are prescribed for different degrees,

1 the jury or court which finds the defendant guilty thereof shall
2 determine the degree of the felony the defendant conspired to
3 commit. If the degree is not so determined, the punishment for
4 conspiracy to commit the felony shall be that prescribed for the
5 lesser degree, except in the case of conspiracy to commit murder,
6 in which case the punishment shall be that prescribed for murder
7 in the first degree.

8 If the felony is conspiracy to commit two or more felonies which
9 have different punishments and the commission of those felonies
10 constitute but one offense of conspiracy, the penalty shall be that
11 prescribed for the felony which has the greater maximum term.

12 When they conspire to do an act described in paragraph (4), they
13 shall be punishable by imprisonment in the state prison, or by
14 imprisonment in the county jail for not more than one year, or by
15 a fine not exceeding ten thousand dollars (\$10,000), or by both that
16 imprisonment or fine.

17 When they conspire to do any of the other acts described in this
18 section, they shall be punishable by imprisonment in the county
19 jail for not more than one year, or in the state prison, or by a fine
20 not exceeding ten thousand dollars (\$10,000), or by both that
21 imprisonment or fine.

22 All cases of conspiracy may be prosecuted and tried in the
23 superior court of any county in which any overt act tending to
24 effect the conspiracy shall be done.

25 (b) Upon a trial for conspiracy, in a case where an overt act is
26 necessary to constitute the offense, the defendant cannot be
27 convicted unless one or more overt acts are expressly alleged in the
28 indictment or information, nor unless one of the acts alleged is
29 proved; but other overt acts not alleged may be given in evidence.

30 ~~SEC. 22.~~

31 *SEC. 21.* Section 186.11 of the Penal Code is amended to read:

32 186.11. (a) (1) Any person who commits two or more
33 related felonies, a material element of which is fraud or
34 embezzlement, which involve a pattern of related felony conduct,
35 and the pattern of related felony conduct involves the taking of
36 more than one hundred thousand dollars (\$100,000), shall be
37 punished, upon conviction of two or more felonies in a single
38 criminal proceeding, in addition and consecutive to the
39 punishment prescribed for the felony offenses of which he or she
40 has been convicted, by an additional term of imprisonment in the

1 state prison as specified in paragraph (2) or (3). This enhancement
2 shall be known as the aggravated white collar crime enhancement.
3 The aggravated white collar crime enhancement shall only be
4 imposed once in a single criminal proceeding. For purposes of this
5 section, “pattern of related felony conduct” means engaging in at
6 least two felonies that have the same or similar purpose, result,
7 principals, victims, or methods of commission, or are otherwise
8 interrelated by distinguishing characteristics, and that are not
9 isolated events. For purposes of this section, “two or more related
10 felonies” means felonies committed against two or more separate
11 victims, or against the same victim on two or more separate
12 occasions.

13 (2) If the pattern of related felony conduct involves the taking
14 of more than five hundred thousand dollars (\$500,000), the
15 additional term of punishment shall be two, three, or five years in
16 the state prison.

17 (3) If the pattern of related felony conduct involves the taking
18 of more than one hundred thousand dollars (\$100,000), but not
19 more than five hundred thousand dollars (\$500,000), the
20 additional term of punishment shall be the term specified in
21 paragraph (1) or (2) of subdivision (a) of Section 12022.6.

22 (b) (1) The additional prison term and penalties provided for
23 in subdivisions (a), (c), and (d) shall not be imposed unless the
24 facts set forth in subdivision (a) are charged in the accusatory
25 pleading and admitted or found to be true by the trier of fact.

26 (2) The additional prison term provided in paragraph (2) of
27 subdivision (a) shall be in addition to any other punishment
28 provided by law, including Section 12022.6, and shall not be
29 limited by any other provision of law.

30 (c) Any person convicted of two or more felonies, as specified
31 in subdivision (a), shall also be liable for a fine not to exceed five
32 hundred thousand dollars (\$500,000) or double the value of the
33 taking, whichever is greater, if the existence of facts that would
34 make the person subject to the aggravated white collar crime
35 enhancement have been admitted or found to be true by the trier
36 of fact. However, if the pattern of related felony conduct involves
37 the taking of more than one hundred thousand dollars (\$100,000),
38 but not more than five hundred thousand dollars (\$500,000), the
39 fine shall not exceed one hundred thousand dollars (\$100,000) or
40 double the value of the taking, whichever is greater.

1 (d) Any person convicted of two or more felonies, as specified
2 in subdivision (a), shall be liable for the costs of restitution to
3 victims of the pattern of fraudulent or unlawful conduct, if the
4 existence of facts that would make the person subject to the
5 aggravated white collar crime enhancement have been admitted or
6 found to be true by the trier of fact.

7 (e) (1) If a person is alleged to have committed two or more
8 felonies, as specified in subdivision (a), and the aggravated white
9 collar crime enhancement is also charged, any asset or property
10 that is in the control of that person, and any asset or property that
11 has been transferred by that person to a third party, subsequent to
12 the commission of any criminal act alleged pursuant to subdivision
13 (a), other than in a bona fide purchase, whether found within or
14 outside the state, may be preserved by the superior court in order
15 to pay restitution and fines imposed pursuant to this section. Upon
16 conviction of two or more felonies, as specified in subdivision (a),
17 this property may be levied upon by the superior court to pay
18 restitution and fines imposed pursuant to this section if the
19 existence of facts that would make the person subject to the
20 aggravated white collar crime enhancement have been admitted or
21 found to be true by the trier of fact.

22 (2) To prevent dissipation or secreting of assets or property, the
23 prosecuting agency may, at the same time as or subsequent to the
24 filing of a complaint or indictment charging two or more felonies,
25 as specified in subdivision (a), and the enhancement specified in
26 subdivision (a), file a petition with the criminal division of the
27 superior court of the county in which the accusatory pleading was
28 filed, seeking a temporary restraining order, preliminary
29 injunction, the appointment of a receiver, or any other protective
30 relief necessary to preserve the property or assets. This petition
31 shall commence a proceeding that shall be pendent to the criminal
32 proceeding and maintained solely to effect the criminal remedies
33 provided for in this section. The proceeding shall not be subject to
34 or governed by the provisions of the Civil Discovery Act of 1986
35 as set forth in Article 3 (commencing with Section 2016) of
36 Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure. The
37 petition shall allege that the defendant has been charged with two
38 or more felonies, as specified in subdivision (a), and is subject to
39 the aggravated white collar crime enhancement specified in
40 subdivision (a). The petition shall identify that criminal



1 proceeding and the assets and property to be affected by an order
2 issued pursuant to this section.

3 (3) A notice regarding the petition shall be provided, by
4 personal service or registered mail, to every person who may have
5 an interest in the property specified in the petition. Additionally,
6 the notice shall be published for at least three successive weeks in
7 a newspaper of general circulation in the county where the
8 property affected by an order issued pursuant to this section is
9 located. The notice shall state that any interested person may file
10 a verified claim with the superior court stating the nature and
11 amount of their claimed interest. The notice shall set forth the time
12 within which a claim of interest in the protected property is
13 required to be filed.

14 (4) If the property to be preserved is real property, the
15 prosecuting agency shall record, at the time of filing the petition,
16 a lis pendens in each county in which the real property is situated
17 which specifically identifies the property by legal description, the
18 name of the owner of record as shown on the latest equalized
19 assessment roll, and the assessor's parcel number.

20 (5) If the property to be preserved are assets under the control
21 of a banking or financial institution, the prosecuting agency, at the
22 time of the filing of the petition, may obtain an order from the court
23 directing the banking or financial institution to immediately
24 disclose the account numbers and value of the assets of the accused
25 held by the banking or financial institution. The prosecuting
26 agency shall file a supplemental petition, specifically identifying
27 which banking or financial institution accounts shall be subject to
28 a temporary restraining order, preliminary injunction, or other
29 protective remedy.

30 (6) Any person claiming an interest in the protected property
31 may, at any time within 30 days from the date of the first
32 publication of the notice of the petition, or within 30 days after
33 receipt of actual notice, file with the superior court of the county
34 in which the action is pending a verified claim stating the nature
35 and amount of his or her interest in the property or assets. A
36 verified copy of the claim shall be served by the claimant on the
37 Attorney General or district attorney, as appropriate.

38 (7) The imposition of fines and restitution pursuant to this
39 section shall be determined by the superior court in which the
40 underlying criminal offense is sentenced. Any judge who is

1 assigned to the criminal division of the superior court in the county
2 where the petition is filed may issue a temporary restraining order
3 in conjunction with, or subsequent to, the filing of an allegation
4 pursuant to this section. Any subsequent hearing on the petition
5 shall also be heard by a judge assigned to the criminal division of
6 the superior court in the county in which the petition is filed. At
7 the time of the filing of an information or indictment in the
8 underlying criminal case, any subsequent hearing on the petition
9 shall be heard by the superior court judge assigned to the
10 underlying criminal case.

11 (f) Concurrent with or subsequent to the filing of the petition,
12 the prosecuting agency may move the superior court for, and the
13 superior court may issue, the following pendente lite orders to
14 preserve the status quo of the property alleged in the petition:

15 (1) An injunction to restrain any person from transferring,
16 encumbering, hypothecating, or otherwise disposing of that
17 property.

18 (2) Appointment of a receiver to take possession of, care for,
19 manage, and operate the assets and properties so that the property
20 may be maintained and preserved. The court may order that a
21 receiver appointed pursuant to this section shall be compensated
22 for all reasonable expenditures made or incurred by him or her in
23 connection with the possession, care, management, and operation
24 of any property or assets that are subject to the provisions of this
25 section.

26 (3) A bond or other undertaking, in lieu of other orders, of a
27 value sufficient to ensure the satisfaction of restitution and fines
28 imposed pursuant to this section.

29 (g) (1) No preliminary injunction may be granted or receiver
30 appointed by the court without notice that meets the requirements
31 of paragraph (3) of subdivision (e) to all known and reasonably
32 ascertainable interested parties and upon a hearing to determine
33 that an order is necessary to preserve the property pending the
34 outcome of the criminal proceedings. A temporary restraining
35 order may be issued by the court, ex parte, pending that hearing in
36 conjunction with or subsequent to the filing of the petition upon
37 the application of the prosecuting attorney. The temporary
38 restraining order may be based upon the sworn declaration of a
39 peace officer with personal knowledge of the criminal
40 investigation that establishes probable cause to believe that

1 aggravated white collar crime has taken place and that the amount
2 of restitution and fines established by this section exceeds or
3 equals the worth of the assets subject to the temporary restraining
4 order. The declaration may include the hearsay statements of
5 witnesses to establish the necessary facts. The temporary
6 restraining order may be issued without notice upon a showing of
7 good cause to the court.

8 (2) The defendant, or a person who has filed a verified claim as
9 provided in paragraph (6) of subdivision (e), shall have the right
10 to have the court conduct an order to show cause hearing within
11 10 days of the service of the request for hearing upon the
12 prosecuting agency, in order to determine whether the temporary
13 restraining order should remain in effect, whether relief should be
14 granted from any *lis pendens* recorded pursuant to paragraph (4)
15 of subdivision (e), or whether any existing order should be
16 modified in the interests of justice. Upon a showing of good cause,
17 the hearing shall be held within two days of the service of the
18 request for hearing upon the prosecuting agency.

19 (3) In determining whether to issue a preliminary injunction or
20 temporary restraining order in a proceeding brought by a
21 prosecuting agency in conjunction with or subsequent to the filing
22 of an allegation pursuant to this section, the court has the discretion
23 to consider any matter that it deems reliable and appropriate,
24 including hearsay statements, in order to reach a just and equitable
25 decision. The court shall weigh the relative degree of certainty of
26 the outcome on the merits and the consequences to each of the
27 parties of granting the interim relief. If the prosecution is likely to
28 prevail on the merits and the risk of the dissipation of assets
29 outweighs the potential harm to the defendants and the interested
30 parties, the court shall grant injunctive relief. The court shall give
31 significant weight to the following factors:

32 (A) The public interest in preserving the property or assets
33 *pendente lite*.

34 (B) The difficulty of preserving the property or assets *pendente*
35 *lite* where the underlying alleged crimes involve issues of fraud
36 and moral turpitude.

37 (C) The fact that the requested relief is being sought by a public
38 prosecutor on behalf of alleged victims of white collar crimes.

1 (D) The likelihood that substantial public harm has occurred
2 where aggravated white collar crime is alleged to have been
3 committed.

4 (E) The significant public interest involved in compensating
5 the victims of white collar crime and paying court imposed
6 restitution and fines.

7 (4) The court, in making its orders, may consider a defendant's
8 request for the release of a portion of the property affected by this
9 section in order to pay reasonable legal fees in connection with the
10 criminal proceeding, any necessary and appropriate living
11 expenses pending trial and sentencing, and for the purpose of
12 posting bail. The court shall weigh the needs of the public to retain
13 the property against the needs of the defendant to a portion of the
14 property. The court shall consider the factors listed in paragraph
15 (3) prior to making any order releasing property for these
16 purposes.

17 (5) The court, in making its orders, shall seek to protect the
18 interests of any innocent third persons, including an innocent
19 spouse, who were not involved in the commission of any criminal
20 activity.

21 (6) Any petition filed pursuant to this section is part of the
22 criminal proceedings for purposes of appointment of counsel and
23 shall be assigned to the criminal division of the superior court of
24 the county in which the accusatory pleading was filed.

25 (7) Based upon a noticed motion brought by the receiver
26 appointed pursuant to paragraph (2) of subdivision (f), the court
27 may order an interlocutory sale of property named in the petition
28 when the property is liable to perish, to waste, or to be significantly
29 reduced in value, or when the expenses of maintaining the property
30 are disproportionate to the value thereof. The proceeds of the
31 interlocutory sale shall be deposited with the court or as directed
32 by the court pending determination of the proceeding pursuant to
33 this section.

34 (8) The court may make any orders that are necessary to
35 preserve the continuing viability of any lawful business enterprise
36 that is affected by the issuance of a temporary restraining order or
37 preliminary injunction issued pursuant to this action.

38 (9) In making its orders, the court shall seek to prevent any asset
39 subject to a temporary restraining order or preliminary injunction
40 from perishing, spoiling, going to waste, or otherwise being



1 significantly reduced in value. Where the potential for diminution
2 in value exists, the court shall appoint a receiver to dispose of or
3 otherwise protect the value of the property or asset.

4 (10) A preservation order shall not be issued against any assets
5 of a business that are not likely to be dissipated and that may be
6 subject to levy or attachment to meet the purposes of this section.

7 (h) If the allegation that the defendant is subject to the
8 aggravated white collar crime enhancement is dismissed or found
9 by the trier of fact to be untrue, any preliminary injunction or
10 temporary restraining order issued pursuant to this section shall be
11 dissolved. If a jury is the trier of fact, and the jury is unable to reach
12 a unanimous verdict, the court shall have the discretion to continue
13 or dissolve all or a portion of the preliminary injunction or
14 temporary restraining order based upon the interests of justice.
15 However, if the prosecuting agency elects not to retry the case, any
16 preliminary injunction or temporary restraining order issued
17 pursuant to this section shall be dissolved.

18 (i) (1) (A) If the defendant is convicted of two or more
19 felonies, as specified in subdivision (a), and the existence of facts
20 that would make the person subject to the aggravated white collar
21 crime enhancement have been admitted or found to be true by the
22 trier of fact, the trial judge shall continue the preliminary
23 injunction or temporary restraining order until the date of the
24 criminal sentencing and shall make a finding at that time as to what
25 portion, if any, of the property or assets subject to the preliminary
26 injunction or temporary restraining order shall be levied upon to
27 pay fines and restitution to victims of the crime. The order
28 imposing fines and restitution may exceed the total worth of the
29 property or assets subjected to the preliminary injunction or
30 temporary restraining order. The court may order the immediate
31 transfer of the property or assets to satisfy any judgment and
32 sentence made pursuant to this section. Additionally, upon motion
33 of the prosecution, the court may enter an order as part of the
34 judgment and sentence making the order imposing fines and
35 restitution pursuant to this section enforceable pursuant to Title 9
36 (commencing with Section 680.010) of Part 2 of the Code of Civil
37 Procedure.

38 (B) Additionally, the court shall order the defendant to make
39 full restitution to the victim or to make restitution to the victim
40 based on his or her ability to pay, as defined in subdivision (b) of



1 Section 1203.1b. The payment of the restitution ordered by the
2 court pursuant to this section shall be made a condition of any
3 probation granted by the court if the existence of facts that would
4 make the defendant subject to the aggravated white collar crime
5 enhancement have been admitted or found to be true by the trier
6 of fact. Notwithstanding any other provision of law, the court may
7 order that the period of probation continue for up to 10 years or
8 until full restitution is made to the victim, whichever is earlier.

9 (C) The sentencing court shall retain jurisdiction to enforce the
10 order to pay additional fines and restitution and, in appropriate
11 cases, may initiate probation violation proceedings or contempt of
12 court proceedings against a defendant who is found to have
13 willfully failed to comply with any lawful order of the court.

14 (D) If the execution of judgment is stayed pending an appeal of
15 an order of the superior court pursuant to this section, the
16 preliminary injunction or temporary restraining order shall be
17 maintained in full force and effect during the pendency of the
18 appellate period.

19 (2) The order imposing fines and restitution shall not affect the
20 interest in real property of any third party that was acquired prior
21 to the recording of the lis pendens, unless the property was
22 obtained from the defendant other than as a bona fide purchaser for
23 value. If any assets or property affected by this section are subject
24 to a valid lien, mortgage, security interest, or interest under a
25 conditional sales contract and the amount due to the holder of the
26 lien, mortgage, interest, or contract is less than the appraised value
27 of the property, that person may pay to the state or the local
28 government that initiated the proceeding the amount of the
29 difference between the appraised value of the property and the
30 amount of the lien, mortgage, security interest, or interest under a
31 conditional sales contract. Upon that payment, the state or local
32 entity shall relinquish all claims to the property. If the holder of the
33 interest elects not to make that payment to the state or local
34 governmental entity, the interest in the property shall be deemed
35 transferred to the state or local governmental entity and any indicia
36 of ownership of the property shall be confirmed in the state or local
37 governmental entity. The appraised value shall be determined as
38 of the date judgment is entered either by agreement between the
39 holder of the lien, mortgage, security interest, or interest under a
40 conditional sales contract and the governmental entity involved,

1 or if they cannot agree, then by a court-appointed appraiser for the
2 county in which the action is brought. A person holding a valid
3 lien, mortgage, security interest, or interest under a conditional
4 sales contract shall be paid the appraised value of his or her
5 interest.

6 (3) In making its final order, the court shall seek to protect the
7 legitimately acquired interests of any innocent third persons,
8 including an innocent spouse, who were not involved in the
9 commission of any criminal activity.

10 (j) In all cases where property is to be levied upon pursuant to
11 this section, a receiver appointed by the court shall be empowered
12 to liquidate all property or assets which shall be distributed in the
13 following order of priority:

14 (1) To the receiver, or court-appointed appraiser, for all
15 reasonable expenditures made or incurred by him or her in
16 connection with the sale of the property or liquidation of assets,
17 including all reasonable expenditures for any necessary repairs,
18 storage, or transportation of any property levied upon under this
19 section.

20 (2) To any holder of a valid lien, mortgage, or security interest
21 up to the amount of his or her interest in the property or proceeds.

22 (3) To any victim as restitution for any fraudulent or unlawful
23 acts alleged in the accusatory pleading that were proven by the
24 prosecuting agency as part of the pattern of fraudulent or unlawful
25 acts.

26 (4) For payment of any fine imposed pursuant to this section.
27 The proceeds obtained in payment of a fine shall be paid to the
28 treasurer of the county in which the judgment was entered, or if the
29 action was undertaken by the Attorney General, to the Treasurer.
30 If the payment of any fine imposed pursuant to this section
31 involved losses resulting from violation of Section 550 of this code
32 or Section 1871.4 of the Insurance Code, one-half of the fine
33 collected shall be paid to the treasurer of the county in which the
34 judgment was entered, and one-half of the fine collected shall be
35 paid to the Department of Insurance for deposit in the appropriate
36 account in the Insurance Fund. The proceeds from the fine first
37 shall be used by a county to reimburse local prosecutors and
38 enforcement agencies for the reasonable costs of investigation and
39 prosecution of cases brought pursuant to this section.

(5) To the Restitution Fund, or in cases involving convictions relating to insurance fraud, to the Insurance Fund as restitution for crimes not specifically pleaded and proven in the accusatory pleading.

(k) If, after distribution pursuant to paragraphs (1) and (2) of subdivision (j), the value of the property to be levied upon pursuant to this section is insufficient to pay for restitution and fines, the court shall order an equitable sharing of the proceeds of the liquidation of the property, and any other recoveries, which shall specify the percentage of recoveries to be devoted to each purpose. At least 70 percent of the proceeds remaining after distribution pursuant to paragraphs (1) and (2) of subdivision (j) shall be devoted to restitution.

(l) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code. If a fine is imposed under this section, it shall be in lieu of all other fines that may be imposed pursuant to any other provision of law for the crimes for which the defendant has been convicted in the action.

~~SEC. 23.~~

SEC. 22. Section 186.22 of the Penal Code is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b) (1) Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony,

1 in addition and consecutive to the punishment prescribed for the
2 felony or attempted felony of which he or she has been convicted,
3 be punished as follows:

4 (A) Except as provided in subparagraphs (B) and (C), the
5 person shall be punished by an additional term of two, three, or
6 four years at the court's discretion.

7 (B) If the felony is a serious felony, as defined in subdivision
8 (c) of Section 1192.7, the person shall be punished by an additional
9 term of five years.

10 (C) If the felony is a violent felony, as defined in subdivision
11 (c) of Section 667.5, the person shall be punished by an additional
12 term of 10 years.

13 (2) If the underlying felony described in paragraph (1) is
14 committed on the grounds of, or within 1,000 feet of, a public or
15 private elementary, vocational, junior high, or high school, during
16 hours in which the facility is open for classes or school-related
17 programs or when minors are using the facility that fact shall be
18 a circumstance in aggravation of the crime in imposing a term
19 under paragraph (1).

20 (3) The court shall order the imposition of the middle term of
21 the sentence enhancement, unless there are circumstances in
22 aggravation or mitigation. The court shall state the reasons for its
23 choice of sentencing enhancements on the record at the time of the
24 sentencing.

25 (4) Any person who is convicted of a felony enumerated in this
26 paragraph committed for the benefit of, at the direction of, or in
27 association with any criminal street gang, with the specific intent
28 to promote, further, or assist in any criminal conduct by gang
29 members, shall, upon conviction of that felony, be sentenced to an
30 indeterminate term of life imprisonment with a minimum term of
31 the indeterminate sentence calculated as the greater of:

32 (A) The term determined by the court pursuant to Section 1170
33 for the underlying conviction, including any enhancement
34 applicable under Chapter 4.5 (commencing with Section 1170) of
35 Title 7 of Part 2, or any period prescribed by Section 3046, if the
36 felony is any of the offenses enumerated in subparagraphs (B) or
37 (C) of this paragraph.

38 (B) Imprisonment in the state prison for 15 years, if the felony
39 is a home invasion robbery, in violation of subparagraph (A) of
40 paragraph (1) of subdivision (a) of Section 213; carjacking, as

1 defined in Section 215; a felony violation of Section 246; or a
2 violation of Section 12022.55.

3 (C) Imprisonment in the state prison for seven years, if the
4 felony is extortion, as defined in Section 519; or threats to victims
5 and witnesses, as defined in Section 136.1.

6 (5) Except as provided in paragraph (4), any person who
7 violates this subdivision in the commission of a felony punishable
8 by imprisonment in the state prison for life, shall not be paroled
9 until a minimum of 15 calendar years have been served.

10 (c) If the court grants probation or suspends the execution of
11 sentence imposed upon the defendant for a violation of subdivision
12 (a), or in cases involving a true finding of the enhancement
13 enumerated in subdivision (b), the court shall require that the
14 defendant serve a minimum of 180 days in a county jail as a
15 condition thereof.

16 (d) Any person who is convicted of a public offense punishable
17 as a felony or a misdemeanor, which is committed for the benefit
18 of, at the direction of or in association with, any criminal street
19 gang with the specific intent to promote, further, or assist in any
20 criminal conduct by gang members, shall be punished by
21 imprisonment in the county jail not to exceed one year, or by
22 imprisonment in the state prison for one, two, or three years,
23 provided that any person sentenced to imprisonment in the county
24 jail shall be imprisoned for a period not to exceed one year, but not
25 less than 180 days, and shall not be eligible for release upon
26 completion of sentence, parole, or any other basis, until he or she
27 has served 180 days. If the court grants probation or suspends the
28 execution of sentence imposed upon the defendant, it shall require
29 as a condition thereof that the defendant serve 180 days in a county
30 jail.

31 (e) As used in this chapter, “pattern of criminal gang activity”
32 means the commission of, attempted commission of, conspiracy
33 to commit, or solicitation of, sustained juvenile petition for, or
34 conviction of two or more of the following offenses, provided at
35 least one of these offenses occurred after the effective date of this
36 chapter and the last of those offenses occurred within three years
37 after a prior offense, and the offenses were committed on separate
38 occasions, or by two or more persons:

39 (1) Assault with a deadly weapon or by means of force likely
40 to produce great bodily injury, as defined in Section 245.

1 (2) Robbery, as defined in Chapter 4 (commencing with
2 Section 211) of Title 8 of Part 1.

3 (3) Unlawful homicide or manslaughter, as defined in Chapter
4 1 (commencing with Section 187) of Title 8 of Part 1.

5 (4) The sale, possession for sale, transportation, manufacture,
6 offer for sale, or offer to manufacture controlled substances as
7 defined in Sections 11054, 11055, 11056, 11057, and 11058 of the
8 Health and Safety Code.

9 (5) Shooting at an inhabited dwelling or occupied motor
10 vehicle, as defined in Section 246.

11 (6) Discharging or permitting the discharge of a firearm from
12 a motor vehicle, as defined in subdivisions (a) and (b) of Section
13 12034.

14 (7) Arson, as defined in Chapter 1 (commencing with Section
15 450) of Title 13.

16 (8) The intimidation of witnesses and victims, as defined in
17 Section 136.1.

18 (9) Grand theft, as defined in subdivision (a) or (c) of Section
19 487.

20 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

21 (11) Burglary, as defined in Section 459.

22 (12) Rape, as defined in Section 261.

23 (13) Looting, as defined in Section 463.

24 (14) Money laundering, as defined in Section 186.10.

25 (15) Kidnapping, as defined in Section 207.

26 (16) Mayhem, as defined in Section 203.

27 (17) Aggravated mayhem, as defined in Section 205.

28 (18) Torture, as defined in Section 206.

29 (19) Felony extortion, as defined in Sections 518 and 520.

30 (20) Felony vandalism, as defined in paragraph (1) of
31 subdivision (b) of Section 594.

32 (21) Carjacking, as defined in Section 215.

33 (22) The sale, delivery, or transfer of a firearm, as defined in
34 Section 12072.

35 (23) Possession of a pistol, revolver, or other firearm capable
36 of being concealed upon the person in violation of paragraph (1)
37 of subdivision (a) of Section 12101.

38 (24) Threats to commit crimes resulting in death or great bodily
39 injury, as defined in Section 422.

1 (25) Theft and unlawful taking or driving of a vehicle, as
2 defined in Section 10851 of the Vehicle Code.

3 (f) As used in this chapter, “criminal street gang” means any
4 ongoing organization, association, or group of three or more
5 persons, whether formal or informal, having as one of its primary
6 activities the commission of one or more of the criminal acts
7 enumerated in paragraphs (1) to (25), inclusive, of subdivision (e),
8 having a common name or common identifying sign or symbol,
9 and whose members individually or collectively engage in or have
10 engaged in a pattern of criminal gang activity.

11 (g) Notwithstanding any other law, the court may strike the
12 additional punishment for the enhancements provided in this
13 section or refuse to impose the minimum jail sentence for
14 misdemeanors in an unusual case where the interests of justice
15 would best be served, if the court specifies on the record and enters
16 into the minutes the circumstances indicating that the interests of
17 justice would best be served by that disposition.

18 (h) Notwithstanding any other provision of law, for each
19 person committed to the Youth Authority for a conviction pursuant
20 to subdivision (a) or (b) of this section, the offense shall be deemed
21 one for which the state shall pay the rate of 100 percent of the per
22 capita institutional cost of the Department of Youth Authority,
23 pursuant to Section 912.5 of the Welfare and Institutions Code.

24 (i) In order to secure a conviction, or sustain a juvenile petition,
25 pursuant to subdivision (a), it is not necessary for the prosecution
26 to prove that the person devotes all, or a substantial part of his or
27 her time or efforts to the criminal street gang, nor is it necessary
28 to prove that the person is a member of the criminal street gang.
29 Active participation in the criminal street gang is all that is
30 required.

31 ~~SEC. 24.~~

32 *SEC. 23.* Section 186.26 of the Penal Code is amended to
33 read:

34 186.26. (a) Any person who solicits or recruits another to
35 actively participate in a criminal street gang, as defined in
36 subdivision (f) of Section 186.22, with the intent that the person
37 solicited or recruited participate in a pattern of criminal street gang
38 activity, as defined in subdivision (e) of Section 186.22, or with the
39 intent that the person solicited or recruited promote, further, or
40 assist in any felonious conduct by members of the criminal street

gang, shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(b) Any person who threatens another person with physical violence on two or more separate occasions within any 30-day period with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who uses physical violence to coerce, induce, or solicit another person to actively participate in any criminal street gang, as defined in subdivision (f) of Section 186.22, or to prevent the person from leaving a criminal street gang, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor, an additional term of three years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.

(e) Nothing in this section shall be construed to limit prosecution under any other provision of law.

~~SEC. 25.~~

SEC. 24. Section 243.1 of the Penal Code is amended to read:

243.1. When a battery is committed against the person of a custodial officer as defined in Section 831 of the Penal Code, and the person committing the offense knows or reasonably should know that the victim is a custodial officer engaged in the performance of his or her duties, and the custodial officer is engaged in the performance of his or her duties, the offense shall be punished by imprisonment in the state prison.

~~SEC. 26.~~

SEC. 25. Section 312.1 of the Penal Code is amended to read:

312.1. In any prosecution for a violation of the provisions of this chapter or of Chapter 7.6 (commencing with Section 313), neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the obscene or harmful character of the matter or live conduct which is the subject of the prosecution. Any evidence which tends to establish contemporary community standards of appeal to prurient interest or of customary limits of candor in the description or representation of nudity, sex or excretion, or which bears upon the

1 question of significant literary, artistic, political, educational, or
2 scientific value shall, subject to the provisions of the Evidence
3 Code, be admissible when offered by either the prosecution or by
4 the defense.

5 ~~SEC. 27.~~

6 *SEC. 26.* Section 320.5 of the Penal Code is amended to read:

7 320.5. (a) Nothing in this chapter applies to any raffle
8 conducted by an eligible organization as defined in subdivision (c)
9 for the purpose of directly supporting beneficial or charitable
10 purposes or financially supporting another private, nonprofit,
11 eligible organization that performs beneficial or charitable
12 purposes if the raffle is conducted in accordance with this section.

13 (b) For purposes of this section, “raffle” means a scheme for
14 the distribution of prizes by chance among persons who have paid
15 money for paper tickets that provide the opportunity to win these
16 prizes, where all of the following are true:

17 (1) Each ticket is sold with a detachable coupon or stub, and
18 both the ticket and its associated coupon or stub are marked with
19 a unique and matching identifier.

20 (2) Winners of the prizes are determined by draw from among
21 the coupons or stubs described in paragraph (1) that have been
22 detached from all tickets sold for entry in the draw.

23 (3) The draw is conducted in California under the supervision
24 of a natural person who is 18 years of age or older.

25 (4) (A) At least 90 percent of the gross receipts generated from
26 the sale of raffle tickets for any given draw are used by the eligible
27 organization conducting the raffle to benefit or provide support for
28 beneficial or charitable purposes, or it may use those revenues to
29 benefit another private, nonprofit organization, provided that an
30 organization receiving these funds is itself an eligible organization
31 as defined in subdivision (c). As used in this section, “beneficial
32 purposes” excludes purposes that are intended to benefit officers,
33 directors, or members, as defined by Section 5056 of the
34 Corporations Code, of the eligible organization. In no event shall
35 funds raised by raffles conducted pursuant to this section be used
36 to fund any beneficial, charitable, or other purpose outside of
37 California. This section does not preclude an eligible organization
38 from using funds from sources other than the sale of raffle tickets
39 to pay for the administration or other costs of conducting a raffle.

1 (B) An employee of an eligible organization who is a direct
2 seller of raffle tickets shall not be treated as an employee for
3 purposes of workers' compensation under Section 3351 of the
4 Labor Code if the following conditions are satisfied:

5 (i) Substantially all of the remuneration (whether or not paid in
6 cash) for the performance of the service of selling raffle tickets is
7 directly related to sales rather than to the number of hours worked.

8 (ii) The services performed by the person are performed
9 pursuant to a written contract between the seller and the eligible
10 organization and the contract provides that the person will not be
11 treated as an employee with respect to the selling of raffle tickets
12 for workers' compensation purposes.

13 (C) For purposes of this section, employees selling raffle
14 tickets shall be deemed to be direct sellers as described in Section
15 650 of the Unemployment Insurance Code as long as they meet the
16 requirements of that section.

17 (c) For purposes of this section, "eligible organization" means
18 a private, nonprofit organization that has been qualified to conduct
19 business in California for at least one year prior to conducting a
20 raffle and is exempt from taxation pursuant to Sections 23701a,
21 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701(l),
22 23701t, or 23701w of the Revenue and Taxation Code.

23 (d) Any person who receives compensation in connection with
24 the operation of the raffle shall be an employee of the eligible
25 organization that is conducting the raffle, and in no event may
26 compensation be paid from revenues required to be dedicated to
27 beneficial or charitable purposes.

28 (e) No raffle otherwise permitted under this section may be
29 conducted by means of, or otherwise utilize, any gaming machine,
30 apparatus, or device, whether or not that machine, apparatus, or
31 device meets the definition of slot machine contained in Section
32 330a, 330b, or 330.1.

33 (f) No raffle otherwise permitted under this section may be
34 conducted, nor may tickets for a raffle be sold, within an operating
35 satellite wagering facility or racetrack inclosure licensed pursuant
36 to the Horse Racing Law (Chapter 4 (commencing with Section
37 19400) of Division 8 of the Business and Professions Code) or
38 within a gambling establishment licensed pursuant to the
39 Gambling Control Act (Chapter 5 (commencing with Section
40 19800) of Division 8 of the Business and Professions Code). A

1 raffle may not be advertised, operated, or conducted in any manner
2 over the Internet, nor may raffle tickets be sold, traded, or
3 redeemed over the Internet. For purposes of this section,
4 advertisement shall not be defined to include the announcement of
5 a raffle on the Web site of the organization responsible for
6 conducting the raffle.

7 (g) No individual, corporation, partnership, or other legal
8 entity shall hold a financial interest in the conduct of a raffle,
9 except the eligible organization that is itself authorized to conduct
10 that raffle, and any private, nonprofit, eligible organizations
11 receiving financial support from that charitable organization
12 pursuant to subdivisions (a) and (b).

13 (h) (1) An eligible organization may not conduct a raffle
14 authorized under this section, unless it registers annually with the
15 Department of Justice. The department shall furnish a registration
16 form via the Internet or upon request to eligible nonprofit
17 organizations. The department shall, by regulation, collect only
18 the information necessary to carry out the provisions of this section
19 on this form. This information shall include, but is not limited to,
20 the following:

21 (A) The name and address of the eligible organization.

22 (B) The federal tax identification number, the corporate
23 number issued by the Secretary of State, the organization number
24 issued by the Franchise Tax Board, or the California charitable
25 trust identification number of the eligible organization.

26 (C) The name and title of a responsible fiduciary of the
27 organization.

28 (2) The department may require an eligible organization to pay
29 an annual registration fee of ten dollars (\$10) to cover the actual
30 costs of the department to administer and enforce this section. The
31 department may, by regulation, adjust the annual registration fee
32 as needed to ensure that revenues willfully offset, but do not
33 exceed, the actual costs incurred by the department pursuant to this
34 section. The fee shall be deposited by the department into the
35 General Fund.

36 (3) The department shall receive General Fund moneys for the
37 costs incurred pursuant to this section subject to an appropriation
38 by the Legislature.

39 (4) The department shall adopt regulations necessary to
40 effectuate this section, including emergency regulations, pursuant

1 to the Administrative Procedure Act (Chapter 3.5 (commencing
2 with Section 11340) of Part 1 of Division 3 of Title 2 of the
3 Government Code).

4 (5) The department shall maintain an automated data base of all
5 registrants. Each local law enforcement agency shall notify the
6 department of any arrests or investigation that may result in an
7 administrative or criminal action against a registrant. The
8 department may audit the records and other documents of a
9 registrant to ensure compliance with this section.

10 (6) Once registered, an eligible organization must file annually
11 thereafter with the department a report that includes the following:

12 (A) The aggregate gross receipts from the operation of raffles.

13 (B) The aggregate direct costs incurred by the eligible
14 organization from the operation of raffles.

15 (C) The charitable or beneficial purposes for which proceeds of
16 the raffles were used, or identify the eligible recipient organization
17 to which proceeds were directed, and the amount of those
18 proceeds.

19 (7) The department shall annually furnish to registrants a form
20 to collect this information.

21 (8) The registration and reporting provisions of this section do
22 not apply to any religious corporation sole or other religious
23 corporation or organization that holds property for religious
24 purposes, to a cemetery corporation regulated under Chapter 19 of
25 Division 3 of the Business and Professions Code, or to any
26 committee as defined in Section 82013 that is required to and does
27 file any statement pursuant to the provisions of Article 2
28 (commencing with Section 84200) of Chapter 4 of Title 9, or to a
29 charitable corporation organized and operated primarily as a
30 religious organization, educational institution, hospital, or a health
31 care service plan licensed pursuant to Section 1349 of the Health
32 and Safety Code.

33 (i) The department may take legal action against a registrant if
34 it determines that the registrant has violated this section or any
35 regulation adopted pursuant to this section, or that the registrant
36 has engaged in any conduct that is not in the best interests of the
37 public's health, safety, or general welfare. Any action taken
38 pursuant to this subdivision does not prohibit the commencement
39 of an administrative or criminal action by the Attorney General,
40 a district attorney, city attorney, or county counsel.

(j) Each action and hearing conducted to deny, revoke, or suspend a registry, or other administrative action taken against a registrant shall be conducted pursuant to the Administrative Procedure Act (Chapters 4.5 and 5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The department may seek recovery of the costs incurred in investigating or prosecuting an action against a registrant or applicant in accordance with those procedures specified in Section 125.3 of the Business and Professions Code. A proceeding conducted under this subdivision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(k) The Department of Justice shall conduct a study and report to the Legislature by December 31, 2003, on the impact of ~~the~~ this section on raffle practices in California. Specifically, the study shall include, but not be limited to, information on whether the number of raffles has increased, the amount of money raised through raffles and whether this amount has increased, whether there are consumer complaints, and whether there is increased fraud in the operation of raffles.

(l) This section shall become operative on July 1, 2001.

(m) A raffle shall be exempt from this section if it satisfies all of the following requirements:

(1) It involves a general and indiscriminate distributing of the tickets.

(2) The tickets are offered on the same terms and conditions as the tickets for which a donation is given.

(3) The scheme does not require any of the participants to pay for a chance to win.

~~SEC. 28.~~

SEC. 27. Section 368 of the Penal Code is amended to read:

368. (a) The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.

(b) (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or

1 permits any elder or dependent adult, with knowledge that he or
2 she is an elder or a dependent adult, to suffer, or inflicts thereon
3 unjustifiable physical pain or mental suffering, or having the care
4 or custody of any elder or dependent adult, willfully causes or
5 permits the person or health of the elder or dependent adult to be
6 injured, or willfully causes or permits the elder or dependent adult
7 to be placed in a situation in which his or her person or health is
8 endangered, is punishable by imprisonment in a county jail not
9 exceeding one year, or by a fine not to exceed six thousand dollars
10 (\$6,000), or by both that fine and imprisonment, or in the state
11 prison for two, three, or four years.

12 (2) If in the commission of an offense described in paragraph
13 (1), the victim suffers great bodily injury, as defined in subdivision
14 ~~(f)~~ of Section 12022.7, the defendant shall receive an additional
15 term in the state prison as follows:

16 (A) Three years if the victim is under 70 years of age.

17 (B) Five years if the victim is 70 years of age or older.

18 (3) If in the commission of an offense described in paragraph
19 (1), the defendant proximately causes the death of the victim, the
20 defendant shall receive an additional term in the state prison as
21 follows:

22 (A) Five years if the victim is under 70 years of age.

23 (B) Seven years if the victim is 70 years of age or older.

24 (c) Any person who, under circumstances or conditions other
25 than those likely to produce great bodily harm or death, willfully
26 causes or permits any elder or dependent adult, with knowledge
27 that he or she is an elder or a dependent adult, to suffer, or inflicts
28 thereon unjustifiable physical pain or mental suffering, or having
29 the care or custody of any elder or dependent adult, willfully
30 causes or permits the person or health of the elder or dependent
31 adult to be injured or willfully causes or permits the elder or
32 dependent adult to be placed in a situation in which his or her
33 person or health may be endangered, is guilty of a misdemeanor.

34 (d) Any person who is not a caretaker who violates any
35 provision of law proscribing theft or embezzlement, with respect
36 to the property of an elder or dependent adult, and who knows or
37 reasonably should know that the victim is an elder or dependent
38 adult, is punishable by imprisonment in a county jail not exceeding
39 one year, or in the state prison for two, three, or four years, when
40 the money, labor, or real or personal property taken is of a value

1 exceeding four hundred dollars (\$400); and by a fine not exceeding
2 one thousand dollars (\$1,000), by imprisonment in a county jail
3 not exceeding one year, or by both that fine and imprisonment,
4 when the money, labor, or real or personal property taken is of a
5 value not exceeding four hundred dollars (\$400).

6 (e) Any caretaker of an elder or a dependent adult who violates
7 any provision of law proscribing theft or embezzlement, with
8 respect to the property of that elder or dependent adult, is
9 punishable by imprisonment in a county jail not exceeding one
10 year, or in the state prison for two, three, or four years when the
11 money, labor, or real or personal property taken is of a value
12 exceeding four hundred dollars (\$400), and by a fine not exceeding
13 one thousand dollars (\$1,000), by imprisonment in a county jail
14 not exceeding one year, or by both that fine and imprisonment,
15 when the money, labor, or real or personal property taken is of a
16 value not exceeding four hundred dollars (\$400).

17 (f) Any person who commits the false imprisonment of an elder
18 or dependent adult by the use of violence, menace, fraud, or deceit
19 is punishable by imprisonment in the state prison for two, three,
20 or four years.

21 (g) As used in this section, “elder” means any person who is
22 65 years of age or older.

23 (h) As used in this section, “dependent adult” means any
24 person who is between the ages of 18 and 64, who has physical or
25 mental limitations which restrict his or her ability to carry out
26 normal activities or to protect his or her rights, including, but not
27 limited to, persons who have physical or developmental
28 disabilities or whose physical or mental abilities have diminished
29 because of age. “Dependent adult” includes any person between
30 the ages of 18 and 64 who is admitted as an inpatient to a 24-hour
31 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
32 the Health and Safety Code.

33 (i) As used in this section, “caretaker” means any person who
34 has the care, custody, or control of, or who stands in a position of
35 trust with, an elder or a dependent adult.

36 (j) Nothing in this section shall preclude prosecution under
37 both this section and Section 187 or 12022.7 or any other provision
38 of law. However, a person shall not receive an additional term of
39 imprisonment under both paragraphs (2) and (3) of subdivision (b)
40 for any single offense, nor shall a person receive an additional term

of imprisonment under both Section 12022.7 and paragraph (2) or (3) of subdivision (b) for any single offense.

~~SEC. 29.~~

SEC. 28. Section 466 of the Penal Code is amended to read:

466. Every person having upon him or her in his or her possession a picklock, crow, keybit, crowbar, screwdriver, vise grip pliers, water-pump pliers, slidehammer, slim jim, tension bar, lock pick gun, tubular lock pick, floor-safe door puller, master key, or other instrument or tool with intent feloniously to break or enter into any building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument ~~above named~~ *named above* so that the same will fit or open the lock of a building, railroad car, aircraft, vessel, trailer coach, or vehicle as defined in the Vehicle Code, without being requested ~~so to do~~ by some person having the right to open the same, or who shall make, alter, or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor. Any of the structures mentioned in Section 459 shall be deemed to be a building within the meaning of this section.

~~SEC. 30.~~

SEC. 29. Section 481.1 of the Penal Code is amended to read:

481.1. (a) Every person who counterfeits, forges, or alters any fare media designed to entitle the holder to a ride on vehicles of a public transportation system, as defined by Section 99211 of the Public Utilities Code, or on vehicles operated by entities subsidized by the Department of Transportation is punishable by imprisonment in a county jail, not exceeding one year, or in the state prison.

(b) Every person who knowingly possesses any counterfeit, forged, or altered fare media designed to entitle the holder to a ride on vehicles of a public transportation system, as defined by Section 99211 of the Public Utilities Code, or on vehicles operated by entities subsidized by the Department of Transportation, or who utters, publishes, or puts into circulation any fare media with intent to defraud is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both *that imprisonment and fine*.

~~SEC. 31.~~

1 *SEC. 30.* Section 530.7 of the Penal Code is amended to read:

2 530.7. (a) In order for a victim of identity theft to be included
3 in the data base established pursuant to subdivision (c), he or she
4 shall submit to the Department of Justice a court order obtained
5 pursuant to any provision of law, a full set of fingerprints, and any
6 other information prescribed by the department.

7 (b) Upon receiving information pursuant to subdivision (a), the
8 Department of Justice shall verify the identity of the victim against
9 any driver's license or other identification record maintained by
10 the Department of Motor Vehicles.

11 (c) The Department of Justice shall establish and maintain a
12 data base of individuals who have been victims of identity theft.
13 The department shall provide a victim of identity theft or his or her
14 authorized representative access to the data base in order to
15 establish that the individual has been a victim of identity theft.
16 Access to the data base shall be limited to criminal justice agencies,
17 victims of identity theft, and individuals and agencies authorized
18 by the victims.

19 (d) The Department of Justice shall establish and maintain a
20 toll-free *telephone* number to provide access to information under
21 subdivision (c).

22 (e) This section shall be operative September 1, 2001.

23 ~~SEC. 32.~~

24 *SEC. 31.* Section 593d of the Penal Code is amended to read:

25 593d. (a) Except as provided in subdivision (e), any person
26 who, for the purpose of intercepting, receiving, or using any
27 program or other service carried by a multichannel video or
28 information services provider that the person is not authorized by
29 that provider to receive or use, commits any of the following acts
30 is guilty of a public offense:

31 (1) Knowingly and willfully makes or maintains an
32 unauthorized connection or connections, whether physically,
33 electrically, electronically, or inductively, to any cable, wire, or
34 other component of a multichannel video or information services
35 provider's system or to a cable, wire or other media, or receiver
36 that is attached to a multichannel video or information services
37 provider's system.

38 (2) Knowingly and willfully purchases, possesses, attaches,
39 causes to be attached, assists others in attaching, or maintains the
40 attachment of any unauthorized device or devices to any cable,

1 wire, or other component of a multichannel video or information
2 services provider's system or to a cable, wire or other media, or
3 receiver that is attached to a multichannel video or information
4 services provider's system.

5 (3) Knowingly and willfully makes or maintains any
6 modification or alteration to any device installed with the
7 authorization of a multichannel video or information services
8 provider.

9 (4) Knowingly and willfully makes or maintains any
10 modifications or alterations to an access device that authorizes
11 services or knowingly and willfully obtains an unauthorized
12 access device and uses the modified, altered, or unauthorized
13 access device to obtain services from a multichannel video or
14 information services provider.

15 For purposes of this section, each purchase, possession,
16 connection, attachment, or modification shall constitute a separate
17 violation of this section.

18 (b) Except as provided in subdivision (e), any person who
19 knowingly and willfully manufactures, assembles, modifies,
20 imports into this state, distributes, sells, offers to sell, advertises
21 for sale, or possesses for any of these purposes, any device or kit
22 for a device, designed, in whole or in part, to decrypt, decode,
23 descramble, or otherwise make intelligible any encrypted,
24 encoded, scrambled, or other nonstandard signal carried by a
25 multichannel video or information services provider, unless the
26 device has been granted an equipment authorization by the Federal
27 Communications Commission (FCC), is guilty of a public offense.

28 For purposes of this subdivision, "encrypted, encoded,
29 scrambled, or other nonstandard signal" means any type of signal
30 or transmission that is not intended to produce an intelligible
31 program or service without the use of a special device, signal, or
32 information provided by the multichannel video or information
33 services provider or its agents to authorized subscribers.

34 (c) Every person who knowingly and willfully makes or
35 maintains an unauthorized connection or connections with,
36 whether physically, electrically, electronically, or inductively, or
37 who attaches, causes to be attached, assists others in attaching, or
38 maintains any attachment to, any cable, wire, or other component
39 of a multichannel video or information services provider's system,
40 for the purpose of interfering with, altering, or degrading any



1 multichannel video or information service being transmitted to
2 others, or for the purpose of transmitting or broadcasting any
3 program or other service not intended to be transmitted or
4 broadcast by the multichannel video or information services
5 provider, is guilty of a public offense.

6 For purposes of this section, each transmission or broadcast
7 shall constitute a separate violation of this section.

8 (d) (1) Any person who violates subdivision (a) shall be
9 punished by a fine not exceeding one thousand dollars (\$1,000),
10 by imprisonment in a county jail not exceeding 90 days, or by both
11 that fine and imprisonment.

12 (2) Any person who violates subdivision (b) shall be punished
13 as follows:

14 (A) If the violation involves the manufacture, assembly,
15 modification, importation into this state, distribution,
16 advertisement for sale, or possession for sale or for any of these
17 purposes, of 10 or more of the items described in subdivision (b),
18 or the sale or offering for sale of five or more items for financial
19 gain, the person shall be punished by imprisonment in a county jail
20 not exceeding one year, or in the state prison, by a fine not
21 exceeding two hundred fifty thousand dollars (\$250,000), or by
22 both that imprisonment and fine.

23 (B) If the violation involves the manufacture, assembly,
24 modification, importation into this state, distribution,
25 advertisement for sale, or possession for sale or for any of these
26 purposes, of nine or less of the items described in subdivision (b),
27 or the sale or offering for sale of four or less items for financial
28 gain, shall upon a conviction of a first offense, be punished by
29 imprisonment in a county jail not exceeding one year, by a fine not
30 exceeding twenty-five thousand dollars (\$25,000), or by both that
31 imprisonment and fine. A second or subsequent conviction shall
32 be punished by imprisonment in a county jail not exceeding one
33 year, or in the state prison, by a fine not exceeding one hundred
34 thousand dollars (\$100,000), or by both that imprisonment and
35 fine.

36 (3) Any person who violates subdivision (c) shall be punished
37 by a fine not exceeding ten thousand dollars (\$10,000), by
38 imprisonment in a county jail, or by both that fine and
39 imprisonment.



(e) Any device or kit described in subdivision (a) or (b) seized under warrant or incident to a lawful arrest, upon the conviction of a person for a violation of subdivision (a) or (b), may be destroyed as contraband by the sheriff.

(f) Any person who violates this section shall be liable in a civil action to the multichannel video or information services provider for the greater of the following amounts:

(1) Five thousand dollars (\$5,000).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff plus reasonable attorney's fees.

A defendant who prevails in the action shall be awarded his or her reasonable attorney's fees.

(g) Any multichannel video or information services provider may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin and restrain any violation of this section, and may in the same action seek damages as provided in subdivision (f).

(h) It is not a necessary prerequisite to an action pursuant to this section that the plaintiff has suffered, or be threatened with, actual damages.

(i) For the purposes of this section, a "multichannel video or information services provider" means a franchised or otherwise duly licensed cable television system, video dialtone system, Multichannel Multipoint Distribution Service system, Direct Broadcast Satellite system, or other system providing video or information services that are distributed via cable, wire, radio frequency, or other media. A video dialtone system is a platform operated by a public utility telephone corporation for the transport of video programming as authorized by the Federal Communications Commission pursuant to FCC Docket No. 87-266, and any subsequent decisions related to that docket, subject to any rules promulgated by the FCC pursuant to those decisions.

~~SEC. 33.~~

SEC. 32. Section 593e of the Penal Code is amended to read:

593e. (a) Every person who knowingly and willfully makes or maintains an unauthorized connection or connections, whether physically, electrically, or inductively, or purchases, possesses, attaches, causes to be attached, assists others in or maintains the

1 attachment of any unauthorized device or devices to a television
2 set or to other equipment designed to receive a television broadcast
3 or transmission, or makes or maintains any modification or
4 alteration to any device installed with the authorization of a
5 subscription television system, for the purpose of intercepting,
6 receiving, or using any program or other service carried by the
7 subscription television system which the person is not authorized
8 by that subscription television system to receive or use, is guilty
9 of a misdemeanor punishable by a fine not exceeding one thousand
10 dollars (\$1,000), or by imprisonment in a county jail not exceeding
11 90 days, or both *that fine and imprisonment*. For the purposes of
12 this section, each purchase, possession, connection, attachment or
13 modification shall constitute a separate violation of this section.

14 (b) Every person who, without the express authorization of a
15 subscription television system, knowingly and willfully
16 manufactures, imports into this state, assembles, distributes, sells,
17 offers to sell, possesses, advertises for sale, or otherwise provides
18 any device, any plan, or any kit for a device or for a printed circuit,
19 designed in whole or in part to decode, descramble, intercept, or
20 otherwise make intelligible any encoded, scrambled, or other
21 nonstandard signal carried by that subscription television system,
22 is guilty of a misdemeanor punishable by a fine not exceeding ten
23 thousand dollars (\$10,000), or by imprisonment in a county jail,
24 or both *that fine and imprisonment*. A second or subsequent
25 conviction is punishable by a fine not exceeding twenty thousand
26 dollars (\$20,000), or by imprisonment in a county jail for up to one
27 year, or both *that fine and imprisonment*.

28 (c) Any person who violates the provisions of subdivision (a)
29 shall be liable to the subscription television system for civil
30 damages in the amount of the value of the connection and
31 subscription fees service actually charged by the subscription
32 television system for the period of unauthorized use according to
33 proof.

34 Any person who violates the provisions of subdivision (b) shall
35 be liable to the subscription television system at the election of the
36 subscription television system for either of the following amounts:

37 (1) An award of statutory damages in an aggregate amount of
38 not less than five hundred dollars (\$500) or more than ten thousand
39 dollars (\$10,000), as the court deems just, for each device, plan,
40 or kit for a device, or for a printed circuit manufactured, imported,

1 assembled, sold, offered for sale, possessed, advertised for sale, or
2 otherwise provided in violation of subdivision (b), to be awarded
3 instead of actual damages and profits.

4 (2) Three times the amount of actual damages sustained by the
5 plaintiff as a result of the violation or violations of this section and
6 any revenues which have been obtained by the defendant as a result
7 of the violation or violations, or an amount equal to three times the
8 value of the services unlawfully obtained, or the sum of five
9 hundred dollars (\$500) for each unauthorized device
10 manufactured, sold, used, or distributed, whichever is greater, and,
11 when appropriate, punitive damages. For the purposes of this
12 subdivision, revenues which have been obtained by the defendant
13 as a result of a violation or violations of this section shall not be
14 included in computing actual damages.

15 In a case where the court finds that any activity set forth in
16 subdivision (b) was committed knowingly and willfully and for
17 purposes of commercial advantage or private financial gain, the
18 court in its discretion may increase the award of damages, whether
19 actual or statutory, by an amount of not more than fifty thousand
20 dollars (\$50,000). It shall not constitute a use for “commercial
21 advantage or private financial gain” for any person to receive a
22 subscription television signal within a residential unit as defined
23 herein.

24 (d) In any civil action filed pursuant to this section, the court
25 shall allow the recovery of full costs plus an award of reasonable
26 attorney’s fees to the prevailing party.

27 (e) Any subscription television system may, in accordance with
28 the provisions of Chapter 3 (commencing with Section 525) of
29 Title 7 of Part 2 of the Code of Civil Procedure, bring an action to
30 enjoin and restrain any violation of this section without having to
31 make a showing of special or irreparable damage, and may in the
32 same action seek damages as provided in subdivision (c). Upon the
33 execution of a proper bond against damages for an injunction
34 improvidently granted, a temporary restraining order or a
35 preliminary injunction may be issued in any action before a final
36 determination on the merits.

37 (f) It is not necessary that the plaintiff have incurred actual
38 damages, or be threatened with incurring actual damages, as a
39 prerequisite to bringing an action pursuant to this section.



(g) For the purposes of this section, an encoded, scrambled, or other nonstandard signal shall include, without limitation, any type of distorted signal or transmission that is not intended to produce an intelligible program or service without the use of special devices or information provided by the sender for the receipt of ~~such~~ *this type of* signal or transmission.

(h) (1) For the purposes of this section, a “subscription television system” means a television system which sends an encoded, scrambled, or other nonstandard signal over the air which is not intended to be received in an intelligible form without special equipment provided by or authorized by the sender.

(2) For purposes of this section, “residential unit” is defined as any single-family residence, mobilehome within a mobilehome park, condominium, unit or an apartment or multiple-housing unit leased or rented for residential purposes.

~~SEC. 34.~~

SEC. 33. Section 597.2 of the Penal Code, as added by Chapter 1061 of the Statutes of 2000, is amended and renumbered to read:

597.3. (a) Every person who operates a live animal market shall do all of the following:

(1) Provide that no animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive.

(2) Provide that no live animals will be confined, held, or displayed in a manner that results, or is likely to result, in injury, starvation, dehydration, or suffocation.

(b) As used in this section:

(1) “Animal” means frogs, turtles, and birds sold for the purpose of human consumption, with the exception of poultry.

(2) “Live animal market” means a retail food market where, in the regular course of business, animals are stored alive and sold to consumers for the purpose of human consumption.

(c) Any person who fails to comply with any requirement of subdivision (a) shall for the first violation, be given a written warning in a written language that is understood by the person receiving the warning. A second or subsequent violation of subdivision (a) shall be an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250), nor more than one thousand dollars (\$1,000). However, a fine paid for a second

1 violation of subdivision (a) shall be deferred for six months if a
2 course is available that is administered by a state or local agency
3 on state law and local ordinances relating to live animal markets.
4 If the defendant successfully completes that course within six
5 months of entry of judgment, the fine shall be waived. The state
6 or local agency may charge the participant a fee to take the course,
7 not to exceed one hundred dollars (\$100).

8 ~~SEC. 35.~~

9 *SEC. 34.* Section 645 of the Penal Code is amended to read:

10 645. (a) Any person guilty of a first conviction of any offense
11 specified in subdivision (c), where the victim has not attained 13
12 years of age, may, upon parole, undergo medroxyprogesterone
13 acetate treatment or its chemical equivalent, in addition to any
14 other punishment prescribed for that offense or any other
15 provision of law, at the discretion of the court.

16 (b) Any person guilty of a second conviction of any offense
17 specified in subdivision (c), where the victim has not attained 13
18 years of age, shall, upon parole, undergo medroxyprogesterone
19 acetate treatment or its chemical equivalent, in addition to any
20 other punishment prescribed for that offense or any other
21 provision of law.

22 (c) This section shall apply to the following offenses:

23 (1) Subdivision (c) or (d) of Section 286.

24 (2) Paragraph (1) of subdivision (b) of Section 288.

25 (3) Subdivision (c) or (d) of Section 288a.

26 (4) Subdivision (a) or (j) of Section 289.

27 (d) The parolee shall begin medroxyprogesterone acetate
28 treatment one week prior to his or her release from confinement
29 in the state prison or other institution and shall continue treatments
30 until the Department of Corrections demonstrates to the Board of
31 Prison Terms that this treatment is no longer necessary.

32 (e) If a person voluntarily undergoes a permanent, surgical
33 alternative to hormonal chemical treatment for sex offenders, he
34 or she shall not be subject to this section.

35 (f) The Department of Corrections shall administer this section
36 and implement the protocols required by this section. Nothing in
37 the protocols shall require an employee of the Department of
38 Corrections who is a physician and surgeon licensed pursuant to
39 Chapter 5 (commencing with Section 2000) of Division 2 of the
40 Business and Professions Code or the Osteopathic Initiative Act to

1 participate against his or her will in the administration of the
2 provisions of this section. These protocols shall include, but not be
3 limited to, a requirement to inform the person about the effect of
4 hormonal chemical treatment and any side effects that may result
5 from it. A person subject to this section shall acknowledge the
6 receipt of this information.

7 ~~SEC. 36.~~

8 *SEC. 35.* Section 646.93 of the Penal Code is amended to
9 read:

10 646.93. (a) (1) In those counties where the arrestee is
11 initially incarcerated in a jail operated by the county sheriff, the
12 sheriff shall designate a telephone number that shall be available
13 to the public to inquire about bail status or to determine if the
14 person arrested has been released and if not yet released, the
15 scheduled release date, if known. This subdivision does not
16 require a county sheriff or jail administrator to establish a new
17 telephone number but shall require that the information contained
18 on the victim resource card, as defined in Section 264.2, specify
19 the phone number that a victim should call to obtain this
20 information. This subdivision shall not require the county sheriff
21 or municipal police departments to produce new victim resource
22 cards containing a designated phone number for the public to
23 inquire about the bail or custody status of a person who has been
24 arrested until their existing supply of victim resource cards has
25 been exhausted.

26 (2) In those counties where the arrestee is initially incarcerated
27 in an incarceration facility other than a jail operated by the county
28 sheriff and in those counties that do not operate a Victim
29 Notification (VNE) system, a telephone number shall be available
30 to the public to inquire about bail status or to determine if the
31 person arrested has been released and if not yet released, the
32 scheduled release date, if known. This subdivision does not require
33 a municipal police agency or jail administrator to establish a new
34 telephone number but shall require that the information contained
35 on the victim resource card, as defined in Section 264.2, specify
36 the phone number that a victim should call to obtain this
37 information. This subdivision shall not require the county sheriff
38 or municipal police departments to produce new victim resource
39 cards containing a designated phone number for the public to
40 inquire about the bail or custody status of a person who has been

1 arrested until their existing supply of victim resource cards has
2 been exhausted.

3 (3) If an arrestee is transferred to another incarceration facility
4 and is no longer in the custody of the initial arresting agency, the
5 transfer date and new incarceration location shall be made
6 available through the telephone number designated by the
7 arresting agency.

8 (4) The resource card provided to victims pursuant to Section
9 264.2 shall list the designated telephone numbers to which this
10 section refers.

11 (b) Any request to lower bail shall be heard in open court in
12 accordance with Section 1270.1. In addition, the prosecutor shall
13 make all reasonable efforts to notify the victim or victims of the
14 bail hearing. The victims may be present at the hearing and shall
15 be permitted to address the court on the issue of bail.

16 (c) Unless good cause is shown not to impose the following
17 conditions, the judge shall impose as additional conditions of
18 release on bail that:

19 (1) The defendant shall not initiate contact in person, by
20 telephone, or any other means with the alleged victims.

21 (2) The defendant shall not knowingly go within 100 yards of
22 the alleged victims, their residence, or place of employment.

23 (3) The defendant shall not possess any firearms or other
24 deadly or dangerous weapons.

25 (4) The defendant shall obey all laws.

26 (5) The defendant, upon request at the time of his or her
27 appearance in court, shall provide the court with an address where
28 he or she is residing or will reside, a business address and telephone
29 number if employed, and a residence telephone number if the
30 defendant's residence has a telephone.

31 A showing by declaration that any of these conditions are
32 violated shall, unless good cause is shown, result in the issuance
33 of a no-bail warrant.

34 ~~SEC. 37.~~

35 *SEC. 36.* Section 666.7 of the Penal Code is amended to read:
36 666.7. It is the intent of the Legislature that this section serve
37 merely as a nonsubstantive comparative reference of current
38 sentence enhancement provisions. Nothing in this section shall
39 have any substantive effect on the application of any sentence
40 enhancement contained in any provision of law, including, but not

1 limited to, all of the following: omission of any sentence
2 enhancement provision, inclusion of any obsolete sentence
3 enhancement provision, or inaccurate reference or summary of a
4 sentence enhancement provision.

5 It is the intent of the Legislature to amend this section as
6 necessary to accurately reflect current sentence enhancement
7 provisions, including the addition of new provisions and the
8 deletion of obsolete provisions.

9 For the purposes of this section, the term “sentence
10 enhancement” means an additional term of imprisonment in the
11 state prison added to the base term for the underlying offense. A
12 sentence enhancement is imposed because of the nature of the
13 offense at the time the offense was committed or because the
14 defendant suffered a qualifying prior conviction before
15 committing the current offense.

16 (a) The provisions listed in this subdivision imposing a
17 sentence enhancement of one year imprisonment in the state prison
18 may be referenced as Schedule A.

19 (1) Money laundering when the value of transactions exceeds
20 fifty thousand dollars (\$50,000), but is less than one hundred fifty
21 thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (c),
22 Sec. 186.10, Pen. C.).

23 (2) Commission of two or more related felonies, a material
24 element of which is fraud or embezzlement, which involve a
25 pattern of related felony conduct, involving the taking of more
26 than one hundred thousand dollars (\$100,000) (para. (3), subd. (a),
27 Sec. 186.11, Pen. C.).

28 (3) Felony conviction of willful harm or injury to a child,
29 involving female genital mutilation (subd. (a), Sec. 273.4, Pen.
30 C.).

31 (4) Prior conviction of felony hate crime with a current
32 conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

33 (5) Harming, obstructing, or interfering with any horse or dog
34 being used by any peace officer in the discharge or attempted
35 discharge of his or her duties and, with the intent to so harm,
36 obstruct, or interfere, personally causing the death, destruction, or
37 serious physical injury of any horse or dog (subd. (c), Sec. 600,
38 Pen. C.).

39 (6) Prior prison term with current felony conviction (subd. (b),
40 Sec. 667.5, Pen. C.).



1 (7) Commission of any specified offense against a person who
2 is 65 years of age or older, blind, a paraplegic or quadriplegic, or
3 under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

4 (8) Showing child pornography to a minor prior to or during the
5 commission or attempted commission of any lewd or lascivious
6 act with the minor (subd. (a), Sec. 667.15, Pen. C.).

7 (9) Felony conviction of forgery, grand theft, or false pretenses
8 as part of plan or scheme to defraud an owner in connection with
9 repairs to a structure damaged by a natural disaster (subd. (a), Sec.
10 667.16, Pen. C.).

11 (10) Impersonating a peace officer during the commission of a
12 felony (Sec. 667.17, Pen. C.).

13 (11) Felony conviction of any specified offense, including, but
14 not limited to, forgery, grand theft, and false pretenses, as part of
15 plan or scheme to defraud an owner in connection with repairs to
16 a structure damaged by natural disaster with a prior felony
17 conviction of any of those offenses (subd. (c), Sec. 670, Pen. C.).

18 (12) Commission or attempted commission of a felony while
19 armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

20 (13) Personally using a deadly or dangerous weapon in the
21 commission or attempted commission of a felony (para. (1), subd.
22 (b), Sec. 12022, Pen. C.).

23 (14) Taking, damaging, or destroying any property in the
24 commission or attempted commission of a felony with the intent
25 to cause that taking, damage, or destruction when the loss exceeds
26 fifty thousand dollars (\$50,000) (para. (1), subd. (a), Sec. 12022.6,
27 Pen. C.).

28 (15) Transferring, lending, selling, or giving any assault
29 weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

30 (16) Manufacturing, causing to be manufactured, distributing,
31 transporting, importing, keeping for sale, offering or exposing for
32 sale, giving, or lending any assault weapon while committing
33 another crime (subd. (e), Sec. 12280, Pen. C.).

34 (17) Inducing, employing, or using a minor to commit a drug
35 offense involving heroin, cocaine, or cocaine base, or unlawfully
36 furnishing one of these controlled substances to a minor, upon the
37 grounds of, or within, a church, playground, youth center, child
38 day care facility, or public swimming pool during business hours
39 or whenever minors are using the facility (para. (1), subd. (a), Sec.
40 11353.1, H.& S.C.).

(18) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five hundred thousand dollars (\$500,000) (para. (1), subd. (a), Sec. 11356.5, H.& S.C.).

(19) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the offense causes the death or great bodily injury of another person other than an accomplice (subd. (a), Sec. 11379.9, H.& S.C.).

(20) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, when the commission of the offense occurs upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

(21) Possessing for sale, or selling, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP), when the commission of the offense occurs upon the grounds of a public park, public library, or oceanfront beach (para. (1), subd. (a), Sec. 11380.5, H.& S.C.).

(22) Causing bodily injury or death to more than one victim in any one instance of driving under the influence of any alcoholic beverage or drug (Sec. 23558, Veh. C.).

(23) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding fifty thousand dollars (\$50,000), but less than one hundred fifty thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(b) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or three years' imprisonment in the state prison may be referenced as Schedule B.

(1) Commission or attempted commission of a felony hate crime (subd. (a), Sec. 422.75, Pen. C.).

(2) Commission or attempted commission of a felony against the property of a public or private institution because the property is associated with a person or group of identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

(3) Felony conviction of unlawfully causing a fire of any structure, forest land, or property when the defendant has been previously convicted of arson or unlawfully causing a fire, or when a firefighter, peace officer, or emergency personnel suffered great bodily injury, or when the defendant proximately caused great bodily injury to more than one victim, or caused multiple structures to burn (subd. (a), Sec. 452.1, Pen. C.).

(4) Carrying a loaded or unloaded firearm during the commission or attempted commission of any felony street gang crime (subd. (a), Sec. 12021.5, Pen. C.).

(5) Personally using a deadly or dangerous weapon in the commission of carjacking or attempted carjacking (para. (2), subd. (b), Sec. 12022, Pen. C.).

(6) Being a principal in the commission or attempted commission of any specified drug offense, knowing that another principal is personally armed with a firearm (subd. (d), Sec. 12022, Pen. C.).

(7) Furnishing or offering to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony (Sec. 12022.4, Pen. C.).

(8) Selling, supplying, delivering, or giving possession or control of a firearm to any person within a prohibited class or to a minor when the firearm is used in the subsequent commission of a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).

(9) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, heroin, cocaine, and cocaine base, or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11353.1, H.& S.C.).

1 (10) Prior conviction of inducing, employing, or using a minor
2 to commit a drug offense involving cocaine base, or unlawfully
3 providing cocaine base to a minor that resulted in a prison sentence
4 with a current conviction of the same offense (subd. (a), Sec.
5 11353.4, H.& S.C.).

6 (11) Prior conviction of inducing, employing, or using a minor
7 to commit a drug offense involving cocaine base, or unlawfully
8 providing cocaine base to a minor with a current conviction of the
9 same offense involving a minor who is 14 years of age or younger
10 (subd. (b), Sec. 11353.4, H.& S.C.).

11 (12) Inducing, employing, or using a minor who is at least four
12 years younger than the defendant to commit a drug offense
13 involving any specified controlled substance, including, but not
14 limited to, phencyclidine (PCP), methamphetamine, and lysergic
15 acid diethylamide (LSD), or unlawfully providing one of these
16 controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1,
17 H.& S.C.).

18 (13) Causing great bodily injury or a substantial probability
19 that death could result by the knowing disposal, transport,
20 treatment, storage, burning, or incineration of any hazardous
21 waste at a facility without permits or at an unauthorized point
22 (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

23 (c) The provisions listed in this subdivision imposing a
24 sentence enhancement of one, two, or five years' imprisonment in
25 the state prison may be referenced as Schedule C.

26 (1) Wearing a bullet-resistant body vest in the commission or
27 attempted commission of a violent offense (subd. (b), Sec.
28 12022.2, Pen. C.).

29 (2) Commission or attempted commission of any specified sex
30 offense while armed with a firearm or deadly weapon (subd. (b),
31 Sec. 12022.3, Pen. C.).

32 (d) The provisions listed in this subdivision imposing a
33 sentence enhancement of 16 months, or two or three years'
34 imprisonment in the state prison may be referenced as Schedule D.

35 (1) Knowing failure to register pursuant to Section 186.30 and
36 subsequent conviction or violation of Section 186.30, as specified
37 (para. (1), subd. (b), Sec. 186.33, Pen. C.).

38 (e) The provisions listed in this subdivision imposing a
39 sentence enhancement of two years' imprisonment in the state
40 prison may be referenced as Schedule E.

1 (1) Money laundering when the value of the transactions
2 exceeds one hundred fifty thousand dollars (\$150,000), but is less
3 than one million dollars (\$1,000,000) (subpara. (B), para. (1),
4 subd. (c), Sec. 186.10, Pen. C.).

5 (2) Commission of two or more related felonies, a material
6 element of which is fraud or embezzlement, which involve a
7 pattern of related felony conduct, involving the taking of more
8 than one hundred fifty thousand dollars (\$150,000) (para. (3),
9 subd. (a), Sec. 186.11, Pen. C.).

10 (3) Conviction of any specified felony sex offense that is
11 committed after fleeing to this state under specified circumstances
12 (subd. (d), Sec. 289.5, Pen. C.).

13 (4) Prior conviction of any specified insurance fraud offense
14 with current conviction of willfully injuring, destroying,
15 secreting, abandoning, or disposing of any property insured
16 against loss or damage by theft, embezzlement, or any casualty
17 with the intent to defraud or prejudice the insurer (subd. (b), Sec.
18 548, Pen. C.).

19 (5) Prior conviction of any specified insurance fraud offense
20 with current conviction of knowingly presenting any false or
21 fraudulent insurance claim or multiple claims for the same loss or
22 injury, or knowingly causing or participating in a vehicular
23 collision for the purpose of presenting any false or fraudulent
24 claim, or providing false or misleading information or concealing
25 information for purpose of insurance fraud (subd. (e), Sec. 550,
26 Pen. C.).

27 (6) Causing serious bodily injury as a result of knowingly
28 causing or participating in a vehicular collision or accident for the
29 purpose of presenting any false or fraudulent claim (subd. (g), Sec.
30 550, Pen. C.).

31 (7) Harming, obstructing, or interfering with any horse or dog
32 being used by any peace officer in the discharge or attempted
33 discharge of his or her duties and, with the intent to cause great
34 bodily injury, personally causing great bodily injury to any person
35 other than an accomplice (subd. (d), Sec. 600, Pen. C.).

36 (8) Prior conviction of any specified offense with current
37 conviction of any of those offenses committed against a person
38 who is 65 years of age or older, blind, a paraplegic or quadriplegic,
39 or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).



(9) Prior conviction for sexual penetration with current conviction of the same offense committed against a person who is 65 years of age or older, blind, deaf, developmentally disabled, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.10, Pen. C.).

(10) Showing child pornography to a minor prior to or during the commission or attempted commission of continuous sexual abuse of the minor (subd. (b), Sec. 667.15, Pen. C.).

(11) Primary care provider in a day care facility committing any specified felony sex offense against a minor entrusted to his or her care (subd. (a), Sec. 674, Pen. C.).

(12) Commission of a felony offense while released from custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen. C.).

(13) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds one hundred fifty thousand dollars (\$150,000) (para. (2), subd. (a), Sec. 12022.6, Pen. C.).

(14) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11353.1, H.& S.C.).

(15) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds two million dollars (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present (subd. (a), Sec. 11379.7, H.& S.C.).

(17) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these

1 controlled substances to a minor, upon, or within 1,000 feet of, the
2 grounds of a school during school hours or whenever minors are
3 using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

4 (18) Prior felony conviction of any specified insurance fraud
5 offense with a current conviction of making false or fraudulent
6 statements concerning a workers' compensation claim (subd. (c),
7 Sec. 1871.4, Ins. C.).

8 (19) Prior felony conviction of making or causing to be made
9 any knowingly false or fraudulent statement of any fact material
10 to the determination of the premium, rate, or cost of any policy of
11 workers' compensation insurance for the purpose of reducing the
12 premium, rate, or cost of the insurance with a current conviction
13 of the same offense (subd. (b), Sec. 11760, Ins. C.).

14 (20) Prior felony conviction of making or causing to be made
15 any knowingly false or fraudulent statement of any fact material
16 to the determination of the premium, rate, or cost of any policy of
17 workers' compensation insurance issued or administered by the
18 State Compensation Insurance Fund for the purpose of reducing
19 the premium, rate, or cost of the insurance with a current
20 conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

21 (21) Fraudulently appropriating food stamps, electronically
22 transferred benefits, or authorizations to participate in the federal
23 Food Stamp Program entrusted to a public employee, or
24 knowingly using, transferring, selling, purchasing, or possessing,
25 any of the same in an unauthorized manner, when the offense is
26 committed by means of an electronic transfer of benefits in an
27 amount exceeding one hundred fifty thousand dollars (\$150,000),
28 but less than one million dollars (\$1,000,000) (subpara. (B), para.
29 (1), subd. (h), Sec. 10980, W.& I.C.).

30 (f) The provisions listed in this subdivision imposing a
31 sentence enhancement of two, three, or four years' imprisonment
32 in the state prison may be referenced as Schedule F.

33 (1) Commission of a felony, other than a serious or violent
34 felony, for the benefit of, at the direction of, or in association with
35 any criminal street gang, with the specific intent to promote,
36 further, or assist in any criminal conduct by gang members
37 (subpara. (A), para. (1), subd. (b), Sec. 186.22, Pen. C.).

38 (2) Acting in concert with another person or aiding or abetting
39 another person in committing or attempting to commit a felony
40 hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device during the commission or attempted commission of any felony street gang crime (subd. (b), Sec. 12021.5, Pen. C.).

(g) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or five years' imprisonment in the state prison may be referenced as Schedule G.

(1) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than five hundred thousand dollars (\$500,000) (para. (2), subd. (a), Sec. 186.11, Pen. C.).

(h) The provisions listed in this subdivision imposing a sentence enhancement of three years' imprisonment in the state prison may be referenced as Schedule H.

(1) Money laundering when the value of transactions exceeds one million dollars (\$1,000,000), but is less than two million five hundred thousand dollars (\$2,500,000) (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Solicitation, recruitment, or coercion, of a minor to actively participate in a criminal street gang (subd. (d), Sec. 186.26, ~~Pen.~~, Pen. C.).

(3) Willfully mingling any poison or harmful substance which may cause death if ingested, or which causes the infliction of great bodily injury on any person, with any food, drink, medicine, or pharmaceutical product or willfully placing that poison or harmful substance in any spring, well, reservoir, or public water supply (para. (2), subd. (a), Sec. 347, Pen. C.).

(4) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (2), subd. (b), Sec. 368, Pen. C.).

(5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws and causing bodily injury to another person other than an accomplice (subd. (b), Sec. 593a, Pen. C.).

1 (6) Prior prison term for violent felony with current violent
2 felony conviction (subd. (a), Sec. 667.5, Pen. C.).

3 (7) Commission of any specified felony sex offense by a
4 primary care provider in a day care facility against a minor
5 entrusted to his or her care while voluntarily acting in concert with
6 another (subd. (b), Sec. 674, Pen. C.).

7 (8) Commission or attempted commission of a felony while
8 armed with an assault weapon or a machinegun (para. (2), subd.
9 (a), Sec. 12022, Pen. C.).

10 (9) Taking, damaging, or destroying any property in the
11 commission or attempted commission of a felony with the intent
12 to cause that taking, damage, or destruction when the loss exceeds
13 one million dollars (\$1,000,000) (para. (3), subd. (a), Sec.
14 12022.6, Pen. C.).

15 (10) Personally inflicting great bodily injury on any person
16 other than an accomplice in the commission or attempted
17 commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

18 (11) Administering by injection, inhalation, ingestion, or any
19 other means, any specified controlled substance against the
20 victim's will by means of force, violence, or fear of immediate and
21 unlawful bodily injury to the victim or another person for the
22 purpose of committing a felony (Sec. 12022.75, Pen. C.).

23 (12) Commission of any specified sex offense with knowledge
24 that the defendant has acquired immune deficiency syndrome
25 (AIDS) or with the knowledge that he or she carries antibodies of
26 the human immunodeficiency virus at the time of the commission
27 of the offense (subd. (a), Sec. 12022.85, Pen. C.).

28 (13) Inducing another person to commit a drug offense as part
29 of the drug transaction for which the defendant is convicted when
30 the value of the controlled substance involved exceeds five million
31 dollars (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

32 (14) Prior conviction of any specified drug offense with current
33 conviction of any specified drug offense (subds. (a), (b), and (c),
34 Sec. 11370.2, H.& S.C.).

35 (15) Commission of any specified drug offense involving a
36 substance containing heroin, cocaine base, cocaine,
37 methamphetamine, amphetamine, or phencyclidine (PCP), when
38 the substance exceeds one kilogram or 30 liters (para. (1), subd.
39 (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).



(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds three gallons or one pound (para. (1), subd. (a), Sec. 11379.8, H.& S.C.).

(17) Four or more prior convictions of specified alcohol-related vehicle offenses with current conviction of driving under the influence and causing great bodily injury (subd. (c), Sec. 23566, Veh. C.).

(18) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one million dollars (\$1,000,000), but less than two million five hundred thousand dollars (\$2,500,000) (subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(i) The provisions listed in this subdivision imposing a sentence enhancement of three, four, or five years' imprisonment in the state prison may be referenced as Schedule I.

(1) Commission of felony arson with prior conviction of arson or unlawfully starting a fire, or causing great bodily injury to a firefighter, peace officer, other emergency personnel, or multiple victims, or causing the burning of multiple structures, or using an accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen. C.).

(2) Commission or attempted commission of any specified drug offense while personally armed with a firearm (subd. (c), Sec. 12022, Pen. C.).

(3) Personally inflicting great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony (subd. (e), Sec. 12022.7, Pen. C.).

(4) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to commit any of those offenses, upon the grounds of, or within 1,000 feet of, a school during school hours or when minors are using the facility (subd. (b), Sec. 11353.6, H.& S.C.).

(5) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to violate any of those offenses, involving a minor who is at least four years younger than the defendant (subd. (c), Sec. 11353.6, H.& S.C.).

(j) The provisions listed in this subdivision imposing a sentence enhancement of 3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule J.

(1) Commission or attempted commission of any felony while armed with a firearm and in the immediate possession of ammunition for the firearm designed primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).

(4) Commission or attempted commission of any specified drug offense while personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).

(k) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule K.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition with current conviction of that offense (subd. (b), Sec. 273d, Pen. C.).

(3) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds two million five hundred thousand dollars (\$2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).

(4) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle and causing a victim to suffer paralysis or

1 paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9,
2 Pen. C.).

3 (5) Personally, willfully, and maliciously discharging a firearm
4 from a motor vehicle at another occupied motor vehicle and
5 causing a victim to suffer paralysis or paraparesis of a major body
6 part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).

7 (6) Willfully causing or permitting any child to suffer, or
8 inflicting on the child unjustifiable physical pain or injury that
9 results in death under circumstances or conditions likely to
10 produce great bodily harm or death, or, having the care or custody
11 of any child, willfully causing or permitting that child to be injured
12 or harmed under circumstances likely to produce great bodily
13 harm or death, when that injury or harm results in death (Sec.
14 12022.95, Pen. C.).

15 (7) Fraudulently appropriating food stamps, electronically
16 transferred benefits, or authorizations to participate in the federal
17 Food Stamp Program entrusted to a public employee, or
18 knowingly using, transferring, selling, purchasing, or possessing,
19 any of the same in an unauthorized manner, when the offense is
20 committed by means of an electronic transfer of benefits in an
21 amount exceeding two million five hundred thousand dollars
22 (\$2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.&
23 I.C.).

24 (8) Execution of a scheme or artifice to defraud the Medi-Cal
25 program or any other health care program administered by the
26 State Department of Health Services or its agents or contractors,
27 or to obtain under false or fraudulent pretenses, representations, or
28 promises any property owned by or under the custody of the
29 Medi-Cal program or any health care program administered by the
30 department, its agents, or contractors under circumstances likely
31 to cause or that do cause two or more persons great bodily injury
32 (subd. (d), Sec. 14107, W.& I.C.).

33 (I) The provisions listed in this subdivision imposing a
34 sentence enhancement of four, five, or six years' imprisonment in
35 the state prison may be referenced as Schedule L.

36 (1) Personally inflicting great bodily injury on a child under the
37 age of five years in the commission or attempted commission of
38 a felony (subd. (d), Sec. 12022.7, Pen. C.).



1 (m) The provisions listed in this subdivision imposing a
2 sentence enhancement of 4, 5, or 10 years' imprisonment in the
3 state prison may be referenced as Schedule M.

4 (1) Commission or attempted commission of a felony while
5 personally using a firearm with prior conviction of carjacking or
6 attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

7 (n) The provisions listed in this subdivision imposing a
8 sentence enhancement of five years' imprisonment in the state
9 prison may be referenced as Schedule N.

10 (1) Commission of a serious felony for the benefit of, at the
11 direction of, or in association with, any criminal street gang, with
12 the specific intent to promote, further, or assist in any criminal
13 conduct by gang members (subpara. (B), para. (1), subd. (b), Sec.
14 186.22, Pen. C.).

15 (2) Using sex offender registration information to commit a
16 felony (para. (1), subd. (q), Sec. 290, and para. (1), subd. (b), Sec.
17 290.4, Pen. C.).

18 (3) Causing great bodily injury by willfully causing or
19 permitting any elder or dependent adult to suffer, or inflicting pain
20 or mental suffering upon, or endangering the health of, an elder or
21 dependent adult when the victim is 70 years of age or older
22 (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

23 (4) Causing death by willfully causing or permitting any elder
24 or dependent adult to suffer, or inflicting pain or mental suffering
25 upon, or endangering the health of, an elder or dependent adult
26 when the victim is under 70 years of age (subpara. (A), para. (3),
27 subd. (b), Sec. 368, Pen. C.).

28 (5) Two prior felony convictions of knowingly causing or
29 participating in a vehicular collision or accident for the purpose of
30 presenting any false or fraudulent claim with current conviction of
31 the same (subd. (f), Sec. 550, Pen. C.).

32 (6) Prior conviction of a serious felony with current conviction
33 of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

34 (7) Prior conviction of any specified sex offense with current
35 conviction of lewd and lascivious acts with a child under 14 years
36 of age (subd. (a), Sec. 667.51, Pen. C.).

37 (8) Prior conviction of any specified sex offense with current
38 conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen.
39 C.).

1 (9) Kidnapping or carrying away any child under 14 years of
2 age with the intent to permanently deprive the parent or legal
3 guardian custody of that child (Sec. 667.85, Pen. C.).

4 (10) Personally inflicting great bodily injury on any person
5 other than an accomplice in the commission or attempted
6 commission of a felony that causes the victim to become comatose
7 due to a brain injury or to suffer paralysis of a permanent nature
8 (subd. (b), Sec. 12022.7, Pen. C.).

9 (11) Personally inflicting great bodily injury on another person
10 who is 70 years of age or older other than an accomplice in the
11 commission or attempted commission of a felony (subd. (c), Sec.
12 12022.7, Pen. C.).

13 (12) Inflicting great bodily injury on any victim in the
14 commission or attempted commission of any specified sex offense
15 (Sec. 12022.8, Pen. C.).

16 (13) Personally and intentionally inflicting injury upon a
17 pregnant woman during the commission or attempted commission
18 of a felony that results in the termination of the pregnancy when
19 the defendant knew or reasonably should have known that the
20 victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).

21 (14) Using information disclosed to the licensee of a
22 community care facility by a prospective client regarding his or her
23 status as a sex offender to commit a felony (subd. (c), Sec. 1522.01,
24 H.& S.C.).

25 (15) Commission of any specified drug offense involving a
26 substance containing heroin, cocaine base, cocaine,
27 methamphetamine, amphetamine, or phencyclidine (PCP), when
28 the substance exceeds 4 kilograms or 100 liters (para. (2), subd.
29 (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

30 (16) Manufacturing, compounding, converting, producing,
31 deriving, processing, or preparing methamphetamine or
32 phencyclidine (PCP), or attempting to commit any of those acts,
33 or possessing specified combinations of substances with the intent
34 to manufacture either methamphetamine or phencyclidine (PCP),
35 when the commission of the crime causes any child under 16 years
36 of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.&
37 S.C.).

38 (17) Manufacturing, compounding, converting, producing,
39 deriving, processing, or preparing any substance containing
40 amphetamine, methamphetamine, or phencyclidine (PCP) or its



1 analogs or precursors, or attempting to commit any of those acts,
2 when the substance exceeds 10 gallons or three pounds (para. (2),
3 subd. (a), Sec. 11379.8, H.& S.C.).

4 (18) Fleeing the scene of the crime after commission of
5 vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

6 (o) The provisions listed in this subdivision imposing a
7 sentence enhancement of 5, 6, or 10 years' imprisonment in the
8 state prison may be referenced as Schedule O.

9 (1) Discharging a firearm at an occupied motor vehicle in the
10 commission or attempted commission of a felony which caused
11 great bodily injury or death to another person (para. (1), subd. (b),
12 Sec. 12022.5, Pen. C.).

13 (2) Commission or attempted commission of a felony while
14 personally using an assault weapon or a machinegun (para. (2),
15 subd. (b), Sec. 12022.5, Pen. C.).

16 (3) Discharging a firearm from a motor vehicle in the
17 commission or attempted commission of a felony with the intent
18 to inflict great bodily injury or death and causing great bodily
19 injury or death (Sec. 12022.55, Pen. C.).

20 (p) The provisions listed in this subdivision imposing a
21 sentence enhancement of seven years' imprisonment in the state
22 prison may be referenced as Schedule P.

23 (1) Causing death by willfully causing or permitting any elder
24 or dependent adult to suffer, or inflicting pain or mental suffering
25 upon, or endangering the health of, an elder or dependent adult
26 when the victim is 70 years of age or older (subpara. (B), para. (3),
27 subd. (b), Sec. 368, Pen. C.).

28 (q) The provisions listed in this subdivision imposing a
29 sentence enhancement of nine years' imprisonment in the state
30 prison may be referenced as Schedule Q.

31 (1) Kidnapping a victim for the purpose of committing any
32 specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

33 (r) The provisions listed in this subdivision imposing a
34 sentence enhancement of 10 years' imprisonment in the state
35 prison may be referenced as Schedule R.

36 (1) Commission of a violent felony for the benefit of, at the
37 direction of, or in association with, any criminal street gang, with
38 the specific intent to promote, further, or assist in any criminal
39 conduct by gang members (subpara. (C), para. (1), subd. (b), Sec.
40 186.22, Pen. C.).

(2) Two or more prior prison terms for any specified sex offense with current conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).

(3) Commission or attempted commission of any specified felony offense while personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).

(4) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 10 kilograms or 200 liters (para. (3), subd. (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

(5) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd. (a), Sec. 11379.8, H.& S.C.).

(s) The provisions listed in this subdivision imposing a sentence enhancement of 15 years' imprisonment in the state prison may be referenced as Schedule S.

(1) Kidnapping a victim under 14 years of age for the purpose of committing any specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

(3) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 105 gallons or 44 pounds (para. (4), subd. (a), Sec. 11379.8, H.& S.C.).

(t) The provisions listed in this subdivision imposing a sentence enhancement of 20 years' imprisonment in the state prison may be referenced as Schedule T.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense (subd. (c), Sec. 12022.53, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4, H.& S.C.).

(u) The provisions listed in this subdivision imposing a sentence enhancement of 25 years' imprisonment in the state prison may be referenced as Schedule U.

(1) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4, H.& S.C.).

(v) The provisions listed in this subdivision imposing a sentence enhancement of 25 years to life imprisonment in the state prison may be referenced as Schedule V.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense and proximately causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

~~SEC. 38.~~

SEC. 37. Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping as punished in former subdivision (d) of Section 208, or for ransom, extortion, or robbery; robbery involving the use of force or a

1 deadly weapon; assault with intent to commit murder; assault with
2 a deadly weapon; carjacking involving the use of a deadly weapon;
3 assault with intent to commit murder; assault with a deadly
4 weapon; assault with a force likely to produce great bodily injury;
5 assault with intent to commit rape, sodomy, oral copulation, sexual
6 penetration in violation of Section 289, or lewd and lascivious acts
7 on a child; arson of a structure; escape or attempted escape by an
8 inmate with force or violence in violation of subdivision (a) of
9 Section 4530, or of Section 4532; exploding a destructive device
10 with intent to murder in violation of Section 12308; exploding a
11 destructive device which causes bodily injury in violation of
12 Section 12309, or mayhem or great bodily injury in violation of
13 Section 12310; exploding a destructive device with intent to
14 injure, intimidate, or terrify, in violation of Section 12303.3; any
15 felony in which the person inflicted great bodily injury as provided
16 in Section 12022.53 or 12022.7; or any felony punishable by death
17 or life imprisonment with or without the possibility of parole is a
18 habitual offender and shall be punished as follows:

19 (1) A person who served two prior separate prison terms shall
20 be punished by imprisonment in the state prison for life and shall
21 not be eligible for release on parole for 20 years, or the term
22 determined by the court pursuant to Section 1170 for the
23 underlying conviction, including any enhancement applicable
24 under Chapter 4.5 (commencing with Section 1170) of Title 7 of
25 Part 2, or any period prescribed by Section 190 or 3046, whichever
26 is greatest. Article 2.5 (commencing with Section 2930) of
27 Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum
28 term in a state prison imposed pursuant to this section, but the
29 person shall not otherwise be released on parole prior to that time.

30 (2) Any person convicted of a felony specified in this
31 subdivision who has served three or more prior separate prison
32 terms, as defined in Section 667.5, for the crimes specified in
33 subdivision (a) of this section shall be punished by imprisonment
34 in the state prison for life without the possibility of parole.

35 (b) This section shall not prevent the imposition of the
36 punishment of death or imprisonment for life without the
37 possibility of parole. No prior prison term shall be used for this
38 determination which was served prior to a period of 10 years in
39 which the person remained free of both prison custody and the
40 commission of an offense which results in a felony conviction. As

used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

~~SEC. 39.~~

SEC. 38. Section 670 of the Penal Code is amended to read:

670. (a) Any person who violates Section 7158 or 7159 of, or subdivision (b), (c), (d), or (e) of Section 7161 of, the Business and Professions Code or Section 470, 484, 487, or 532 of this code as part of a plan or scheme to defraud an owner or lessee of a residential or nonresidential structure in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster specified in subdivision (b), shall be subject to the penalties and enhancements specified in subdivisions (c) and (d). The existence of any fact which would bring a person under this section shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(b) This section applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

(c) The maximum or prescribed amounts of fines for offenses subject to this section shall be doubled. If the person has been previously convicted of a felony offense specified in subdivision (a), the person shall receive a one-year enhancement in addition to, and to run consecutively to, the term of imprisonment for any felony otherwise prescribed by this subdivision.

(d) Additionally, the court shall order any person sentenced pursuant to this section to make full restitution to the victim or to make restitution to the victim based on the person's ability to pay, as defined in subdivision (b) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this subdivision shall be made a condition of any probation granted by the court for

1 an offense punishable under this section. Notwithstanding any
2 other provision of law, the period of probation shall be at least five
3 years or until full restitution is made to the victim, whichever first
4 occurs.

5 (e) Notwithstanding any other provision of law, the
6 prosecuting agency shall be entitled to recover its costs of
7 investigation and prosecution from any fines imposed for a
8 conviction under this section.

9 ~~SEC. 40.~~

10 *SEC. 39.* Section 778a of the Penal Code is amended to read:

11 778a. (a) Whenever a person, with intent to commit a crime,
12 does any act within this state in execution or part execution of that
13 intent, which culminates in the commission of a crime, either
14 within or without this state, the person is punishable for that crime
15 in this state in the same manner as if the crime had been committed
16 entirely within this state.

17 (b) Whenever a person who, within this state, kidnaps another
18 person within the meaning of Sections 207 and 209, and thereafter
19 carries the person into another state or country and commits any
20 crime of violence or theft against that person in the other state or
21 country, the person is punishable for that crime of violence or theft
22 in this state in the same manner as if the crime had been committed
23 within this state.

24 ~~SEC. 41.~~

25 *SEC. 40.* Section 933.06 of the Penal Code is amended to
26 read:

27 933.06. (a) Notwithstanding Sections 916 and 940, in a
28 county having a population of 20,000 or less, a final report may be
29 adopted and submitted pursuant to Section 933 with the
30 concurrence of at least 10 grand jurors if all of the following
31 conditions are met:

32 (1) The grand jury consisting of 19 persons has been impaneled
33 pursuant to law, and the membership is reduced from 19 to fewer
34 than 12.

35 (2) The vacancies have not been filled pursuant to Section
36 908.1 within 30 days from the time that the clerk of the superior
37 court is given written notice that the vacancy has occurred.

38 (3) A final report has not been submitted by the grand jury
39 pursuant to Section 933.

(b) Notwithstanding Section 933, no responsible officers, agencies, or departments shall be required to comment on a final report submitted pursuant to this section.

~~SEC. 42.~~

SEC. 41. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term “specific enhancement” means enhancements that relate to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

~~SEC. 43.~~

SEC. 42. Section 1174.4 of the Penal Code is amended to read:

1174.4. (a) Persons eligible for participation in this alternative sentencing program shall meet all of the following criteria:

(1) Pregnant women with an established history of substance abuse, or pregnant or parenting women with an established history of substance abuse who have one or more children under six years old at the time of entry into the program. For women with children, at least one eligible child shall reside with the mother in the facility.

(2) Never served a prior prison term for, nor been convicted in the present proceeding of, committing or attempting to commit, any of the following offenses:

(A) Murder or voluntary manslaughter.

(B) Mayhem.

(C) Rape.

- 1 (D) Kidnapping.
- 2 (E) Sodomy by force, violence, duress, menace, or fear of
3 immediate and unlawful bodily injury on the victim or another
4 person.
- 5 (F) Oral copulation by force, violence, duress, menace, or fear
6 of immediate and unlawful bodily injury on the victim or another
7 person.
- 8 (G) Lewd acts on a child under 14 years of age, as defined in
9 Section 288.
- 10 (H) Any felony punishable by death or imprisonment in the
11 state prison for life.
- 12 (I) Any felony in which the defendant inflicts great bodily
13 injury on any person, other than an accomplice, that has been
14 charged and proved as provided for in Section 12022.53, 12022.7,
15 or 12022.9, or any felony in which the defendant uses a firearm,
16 as provided in Section 12022.5, 12022.53, or 12022.55, in which
17 the use has been charged and proved.
- 18 (J) Robbery.
- 19 (K) Any robbery perpetrated in an inhabited dwelling house or
20 trailer coach as defined in the Vehicle Code, or in the inhabited
21 portion of any other building, wherein it is charged and proved that
22 the defendant personally used a deadly or dangerous weapon, as
23 provided in subdivision (b) of Section 12022, in the commission
24 of that robbery.
- 25 (L) Arson in violation of subdivision (a) of Section 451.
- 26 (M) Sexual penetration in violation of subdivision (a) of
27 Section 289 if the act is accomplished against the victim's will by
28 force, violence, duress, menace, or fear of immediate and unlawful
29 bodily injury on the victim or another person.
- 30 (N) Rape or sexual penetration in concert, in violation of
31 Section 264.1.
- 32 (O) Continual sexual abuse of a child in violation of Section
33 288.5.
- 34 (P) Assault with intent to commit mayhem, rape, sodomy, oral
35 copulation, rape in concert with another, lascivious acts upon a
36 child, or sexual penetration.
- 37 (Q) Assault with a deadly weapon or with force likely to
38 produce great bodily injury in violation of subdivision (a) of
39 Section 245.
- 40 (R) Any violent felony defined in Section 667.5.



1 (S) A violation of Section 12022.

2 (T) A violation of Section 12308.

3 (U) Burglary of the first degree.

4 (V) A violation of Section 11351, 11351.5, 11352, 11353,
5 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379,
6 11379.5, 11379.6, 11380, or 11383 of the Health and Safety Code.

7 (3) Has not been sentenced to state prison for a term exceeding
8 36 months.

9 (b) Prior to sentencing, if the court proposes to give
10 consideration to a placement, the court shall consider a written
11 evaluation by the probation department, which shall include the
12 following:

13 (1) Whether the defendant is eligible for participation pursuant
14 to this section.

15 (2) Whether participation by the defendant and her eligible
16 children is deemed to be in the best interests of the children.

17 (3) Whether the defendant is amenable to treatment for
18 substance abuse and would benefit from participation in the
19 program.

20 (4) Whether the program is deemed to be in the best interests
21 of an eligible child of the defendant, as determined by a
22 representative of the appropriate child welfare services agency of
23 the county if the child is a dependent child of the juvenile court
24 pursuant to Section 300 of the Welfare and Institutions Code.

25 (c) The district attorney shall make a recommendation to the
26 court as to whether or not the defendant would benefit from the
27 program, which the court shall consider in making its decision. If
28 the court's decision is without the concurrence of the district
29 attorney, the court shall specify its reasons in writing and enter
30 them into the record.

31 (d) If the court determines that the defendant may benefit from
32 participation in this program, the court may impose a state prison
33 sentence with the recommendation that the defendant participate
34 in the program pursuant to this chapter. The court shall notify the
35 department within 48 hours of imposition of this sentence.

36 (e) The Director of Corrections shall consider the court's
37 recommendation in making a determination on the inmate's
38 placement in the program.

39 (f) Women accepted for the program by the Director of
40 Corrections shall be delivered by the county, pursuant to Section

1 1202a, to the facility selected by the department. Before the
2 director accepts a woman for the program, the county shall provide
3 to the director the necessary information to determine her
4 eligibility and appropriate placement status. Priority for services
5 and aftercare shall be given to inmates who are incarcerated in a
6 county, or adjacent to a county, in which a program facility is
7 located.

8 (g) Prior to being admitted to the program, each participant
9 shall voluntarily sign an agreement specifying the terms and
10 conditions of participation in the program.

11 (h) The department may refer inmates back to the sentencing
12 court if the department determines that an eligible inmate has not
13 been recommended for the program. The department shall refer
14 the inmate to the court by an evaluative report so stating the
15 department's assessment of eligibility, and requesting a
16 recommendation by the court.

17 (i) Women who successfully complete the program, including
18 the minimum of one year of transition services under intensive
19 parole supervision, shall be discharged from parole. Women who
20 do not successfully complete the program shall be returned to the
21 state prison where they shall serve their original sentences. These
22 persons shall receive full credit against their original sentences for
23 the time served in the program, pursuant to Section 2933.

24 ~~SEC. 44.~~

25 *SEC. 43.* Section 1203.044 of the Penal Code is amended to
26 read:

27 1203.044. (a) This section shall apply only to a defendant
28 convicted of a felony for theft of an amount exceeding fifty
29 thousand dollars (\$50,000) in a single transaction or occurrence.
30 This section shall not apply unless the fact that the crime involved
31 the theft of an amount exceeding fifty thousand dollars (\$50,000)
32 in a single transaction or occurrence is charged in the accusatory
33 pleading and either admitted by the defendant in open court or
34 found to be true by the trier of fact. Aggregate losses from more
35 than one criminal act shall not be considered in determining if this
36 section applies.

37 (b) Notwithstanding any other law, probation shall not be
38 granted to a defendant convicted of a crime to which subdivision
39 (a) applies if the defendant was previously convicted of an offense
40 for which an enhancement pursuant to Section 12022.6 was found

1 true even if that enhancement was not imposed by the sentencing
2 court. The prior conviction shall be alleged in the accusatory
3 pleading and either admitted by the defendant in open court or
4 found to be true by the trier of fact.

5 (c) In deciding whether to grant probation to a defendant
6 convicted of a crime to which subdivision (a) applies, the court
7 shall consider all relevant information, including the extent to
8 which the defendant has attempted to pay restitution to the victim
9 between the date upon which the defendant was convicted and the
10 date of sentencing. A defendant claiming inability to pay
11 restitution before the date of sentencing shall provide a statement
12 of assets, income, and liabilities, as set forth in subdivision (j) to
13 the court, the probation department, and the prosecution.

14 (d) In addition to the restrictions on probation imposed by
15 subdivisions (b) and (c), probation shall not be granted to any
16 person convicted of theft in an amount exceeding one hundred
17 thousand dollars (\$100,000) in a single transaction or occurrence,
18 except in unusual cases if the interests of justice would best be
19 served if the person is granted probation. The fact that the theft was
20 of an amount exceeding one hundred thousand dollars (\$100,000)
21 in a single transaction or occurrence, shall be alleged in the
22 accusatory pleading and either admitted by the defendant in open
23 court or found to be true by the trier of fact. This subdivision shall
24 not authorize a grant of probation otherwise prohibited under
25 subdivision (b) or (c). If probation is granted pursuant to this
26 subdivision, the court shall specify on the record and shall enter on
27 the minutes the circumstances indicating that the interests of
28 justice would best be served by that disposition. Aggregate losses
29 from more than one criminal act shall not be considered in
30 determining whether this subdivision applies.

31 (e) Subject to subdivision (f), if a defendant is convicted of a
32 crime to which subdivision (a) applies and the court grants
33 probation, a court shall impose at least a 90-day sentence in a
34 county jail as a condition of probation. If the defendant was
35 convicted of a crime to which subdivision (d) applies, and the court
36 grants probation, the court shall impose at least a 180-day sentence
37 in a county jail as a condition of probation.

38 (f) The court shall designate a portion of any sentence imposed
39 pursuant to subdivision (e) as a mandatory in-custody term. For the
40 purpose of this section only, “mandatory in-custody term” means

1 that the defendant shall serve that term, notwithstanding credits
2 pursuant to Section 4019, in custody in a county jail. The
3 defendant shall not be allowed release on any program during that
4 term, including work furlough, work release, public service
5 program, or electronic monitoring. The court shall designate the
6 mandatory in-custody term as follows:

7 (1) If the defendant was convicted of a crime to which
8 subdivision (a) applies, the mandatory in-custody term shall be no
9 less than 30 days. If the person serves a mandatory in-custody term
10 of at least 30 days, the court may, in the interests of justice, and for
11 reasons stated in the record, reduce the mandatory minimum
12 90-day sentence required by subdivision (e).

13 (2) If the defendant was convicted of a crime to which
14 subdivision (d) applies, the mandatory in-custody term shall be no
15 less than 60 days. If the person serves a mandatory in-custody term
16 of at least 60 days, the court may, in the interests of justice, and for
17 reasons stated in the record, reduce the mandatory minimum
18 180-day sentence required by subdivision (e).

19 (g) If a defendant is convicted of a crime to which subdivision
20 (a) applies, and the court grants probation, the court shall require
21 the defendant as a condition of probation to pay restitution to the
22 victim and to pay a surcharge to the county in the amount of 20
23 percent of the restitution ordered by the court, as follows:

24 (1) The surcharge is not subject to any assessments otherwise
25 imposed by Section 1464. The surcharge shall be paid into the
26 county treasury and placed in the general fund to be used
27 exclusively for the investigation and prosecution of white collar
28 crime offenses and to pay the expenses incurred by the county in
29 administering this section, including increased costs incurred as a
30 result of offenders serving mandatory in-custody terms pursuant
31 to this section.

32 (2) The court shall also enter an income deduction order as
33 provided in Section 13967.2 of the Government Code to secure
34 payment of the surcharge. That order may be enforced to secure
35 payment of the surcharge as provided by those provisions.

36 (3) The county board of supervisors shall not charge the fee
37 provided for by Section 1203.1, subdivision (l) of Section 1202.4,
38 or subdivision (d) of Section 13967, as operative on or before
39 September 28, 1994, of the Government Code for the collection of
40 restitution or any restitution fine.

(4) The defendant shall not be required to pay the costs of probation as otherwise required by subdivision (b) of Section 1203.1.

(h) Notwithstanding any other law, if a defendant is convicted of a crime to which subdivision (a) applies and the court grants probation, as a condition of probation, within 30 court days after being granted probation, and annually thereafter, the defendant shall provide the county financial officer with all of the following documents and records:

(1) True and correct copies of all income tax and personal property tax returns for the previous tax year, including W-2 forms filed on the defendant's behalf with any state tax agency. If the defendant is unable to supply a copy of a state tax return, the defendant shall provide a true and correct copy of all income tax returns for the previous tax year filed on his or her behalf with the federal government. The defendant is not required to provide any particular document if to do so would violate federal law or the law of the state in which the document was filed. However, this section shall supersede all other laws in this state concerning the right to privacy with respect to tax returns filed with this state. If, during the term of probation, the defendant intentionally fails to provide the county financial officer with any document that he or she knows is required to be provided under this subdivision, that failure shall constitute a violation of probation.

(2) A statement of income, assets, and liabilities as defined in subdivision (j).

(i) The submission by the defendant of any tax document pursuant to paragraph (1) of subdivision (h) that the defendant knows does not accurately state the defendant's income, or if required, the defendant's personal property, if the inaccuracy is material, constitutes a violation of probation.

(j) A statement of income, assets, and liabilities form, that is consistent with the disclosure requirements of this section, may be established by the financial officer of each county. That statement shall require the defendant to furnish relevant financial information identifying the defendant's income, assets, possessions, or liabilities, actual or contingent. The statement may include the following:

(1) All real property in which the defendant has any interest.

1 (2) Any item of personal property worth more than three
2 thousand dollars (\$3,000) in which the defendant has any interest,
3 including, but not limited to, vehicles, airplanes, boats, computers,
4 and consumer electronics. Any collection of jewelry, coins, silver,
5 china, artwork, antiques, or other collectibles in which the
6 defendant has any interest, if that collection is worth more than
7 three thousand dollars (\$3,000).

8 (3) All domestic and foreign assets in the defendant's name, or
9 in the name of the defendant's spouse or minor children, of a value
10 over three thousand dollars (\$3,000) and in whatever form,
11 including, but not limited to, bank accounts, securities, stock
12 options, bonds, mutual funds, money market funds, certificates of
13 deposits, annuities, commodities, precious metals, deferred
14 compensation accounts, individual retirement accounts, and
15 related or analogous accounts.

16 (4) All insurance policies in which the defendant or the
17 defendant's spouse or minor children retain a cash value.

18 (5) All pension funds in which the defendant has a vested right.

19 (6) All insurance policies of which the defendant is a
20 beneficiary.

21 (7) All contracts, agreements, judgments, awards, or prizes
22 granting the defendant the right to receive money or real or
23 personal property in the future, including alimony and child
24 support.

25 (8) All trusts of which the defendant is a beneficiary.

26 (9) All unrevoked wills of a decedent if the defendant or
27 defendant's spouse or minor child is a beneficiary.

28 (10) All lawsuits currently maintained by the defendant or by
29 or against a corporation in which the defendant owns more than a
30 25-percent interest if the suit includes a prayer for damages.

31 (11) All corporations of which the defendant is an officer. If the
32 defendant is an officer in a corporation sole, subchapter S
33 corporation, or closely held corporation, and controls more equity
34 of that corporation than any other individual, the county financial
35 officer shall have authority to request other records of the
36 corporation.

37 (12) All debts in excess of three thousand dollars (\$3,000)
38 owed by the defendant to any person or entity.

39 (13) Copies of all applications for loans made by the defendant
40 during the last year.

1 (14) All encumbrances on any real and personal property in
2 which the defendant has any interest.

3 (15) All sales, transfers, assignments, quitclaims,
4 conveyances, or encumbrances of any interest in real or personal
5 property of a value exceeding three thousand dollars (\$3,000)
6 made by the defendant during the period beginning one year before
7 charges were filed to the present, including the identity of the
8 recipient of same, and relationship, if any, to the defendant.

9 (k) The information contained in the statement of income,
10 assets, and liabilities shall not be available to the public.
11 Information received pursuant to this subdivision shall not be
12 disclosed to any member of the public. Any disclosure in violation
13 of this section shall be a contempt of court punishable by a fine not
14 exceeding one thousand dollars (\$1,000), and shall also create a
15 civil cause of action for damages.

16 (l) After providing the statement of income, assets, and
17 liabilities, the defendant shall provide the county financial officer
18 with copies of any documents representing or reflecting the
19 financial information set forth in subdivision (j) as requested by
20 that officer.

21 (m) The defendant shall sign the statement of income, assets,
22 and liabilities under penalty of perjury. The provision of
23 information known to be false, or the intentional failure to provide
24 material information knowing that it was required to have been
25 provided, shall constitute a violation of probation.

26 (n) The Franchise Tax Board and the Employment
27 Development Department shall release copies of income tax
28 returns filed by the defendant and other information concerning
29 the defendant's current income and place of employment to the
30 county financial officer upon request. That information shall be
31 kept confidential and shall not be made available to any member
32 of the public. Any unauthorized release shall be subject to
33 subdivision (k). The county shall reimburse the reasonable
34 administrative expenses incurred by those agencies in providing
35 this information.

36 (o) During the term of probation, the defendant shall notify the
37 county financial officer in writing within 30 days, after receipt
38 from any source of any money or real or personal property that has
39 a value of over five thousand dollars (\$5,000), apart from the
40 salary from the defendant's and the defendant's spouse's regular

1 employment. The defendant shall report the source and value of
2 the money or real or personal property received. This information
3 shall not be made available to the public or the victim. Any
4 unauthorized release shall be subject to subdivision (k).

5 (p) The term of probation in all cases shall be 10 years.
6 However, after the defendant has served five years of probation,
7 the defendant shall be released from all terms and conditions of
8 probation except those terms and conditions included within this
9 section. A court may not revoke or otherwise terminate probation
10 within 10 years unless and until the defendant has satisfied both the
11 restitution judgment and the surcharge, or the defendant is
12 imprisoned for a violation of probation. Upon satisfying the
13 restitution judgment, the defendant is entitled to a court order
14 vacating that judgment and removing it from the public record.
15 Amounts owing on the surcharge are forgiven upon completion of
16 the term of probation.

17 (q) The county financial officer shall establish a suggested
18 payment schedule each year to ensure that the defendant remits
19 amounts to make restitution to the victim and pay the surcharge.
20 The county financial officer shall evaluate the defendant's current
21 earnings, future earning capacity, assets (including assets that are
22 in trust or in accounts where penalties may be incurred upon
23 premature withdrawal of funds), and liabilities, and set payments
24 to the county based upon the defendant's ability to pay. The
25 defendant shall bear the burden of demonstrating the lack of his or
26 her ability to pay. If the defendant objects to the suggested payment
27 schedule, the court shall set the schedule. Express findings by the
28 court as to the factors bearing on the payment schedule shall not
29 be required. After the payment schedule is set, a defendant may
30 request a change in the schedule upon a change of circumstances.
31 The restitution schedule shall set a reasonable payment amount
32 and shall not set payments in an amount that is likely to cause
33 severe financial hardship to the defendant or his or her family.

34 (r) The willful failure to pay the amounts required by the
35 payment schedule or to comply with the requirements of the
36 county financial officer or the probation department pursuant to
37 this section, if the defendant is able to pay or comply, is a violation
38 of probation.

39 (s) In determining the defendant's ability to pay, the court shall
40 consider whether the annual payment required, including any

1 money or property seized to satisfy the restitution judgment,
 2 exceeds 15 percent of the defendant's taxable income for the
 3 previous year as identified on the defendant's tax return for the
 4 defendant's state of residence or on the defendant's federal tax
 5 return. If the defendant has filed a joint return, the defendant's
 6 income for purposes of this section shall be presumed to be the
 7 total of all wages earned by the defendant, plus one-half of all other
 8 nonsalary income listed on the tax return and accompanying
 9 schedules, unless the defendant demonstrates otherwise. The court
 10 shall also consider the defendant's current income and future
 11 earning capacity. A defendant shall bear the burden of
 12 demonstrating lack of his or her ability to pay. Express findings by
 13 the court as to the factors bearing on the payment schedule shall
 14 not be required.

15 (t) The defendant shall personally appear at any hearing held
 16 pursuant to any provision of this section unless the defendant is
 17 incarcerated or otherwise excused by the court, in which case the
 18 defendant may appear through counsel.

19 (u) Notwithstanding subdivision (d) of Section 1203.1, the
 20 county financial officer shall distribute proceeds collected by the
 21 county pursuant to this section as follows:

22 (1) If the restitution judgment has been satisfied, but the
 23 surcharge remains outstanding, all amounts paid by the defendant
 24 shall be kept by the county and applied to the surcharge.

25 (2) If the surcharge has been satisfied, but the restitution
 26 judgment has not been satisfied, all amounts submitted to the
 27 county shall be remitted to the victim.

28 (3) If neither judgment has been satisfied, the county shall
 29 remit 70 percent of the amounts collected to the victim. Those
 30 amounts shall be credited to the restitution judgment. The
 31 remaining 30 percent shall be retained by the county and credited
 32 toward the surcharge.

33 (v) Neither this section, nor the amendments to Section
 34 12022.6 of the Penal Code enacted pursuant to Chapter 104 of the
 35 Statutes of 1992, are intended to lessen or otherwise mitigate
 36 sentences that could otherwise be imposed under any law in effect
 37 when the offense was committed.

38 (w) For the purpose of this section, a county may designate an
 39 appropriate employee of the county probation department, the

1 department of revenue, or any other analogous county department
2 to act as the county financial officer pursuant to this section.

3 (x) This section shall remain in effect only until January 1,
4 2008, and as of that date is repealed, unless a later enacted statute,
5 which is enacted before January 1, 2008, deletes or extends that
6 date.

7 (y) This act shall be known as the Economic Crime Act of
8 1992.

9 ~~SEC. 45.~~

10 *SEC. 44.* Section 1203.097 of the Penal Code is amended to
11 read:

12 1203.097. (a) If a person is granted probation for a crime in
13 which the victim is a person defined in Section 6211 of the Family
14 Code, the terms of probation shall include all of the following:

15 (1) A minimum period of probation of 36 months, which may
16 include a period of summary probation as appropriate.

17 (2) A criminal court protective order protecting the victim from
18 further acts of violence, threats, stalking, sexual abuse, and
19 harassment, and, if appropriate, containing residence exclusion or
20 stay-away conditions.

21 (3) Notice to the victim of the disposition of the case.

22 (4) Booking the defendant within one week of sentencing if the
23 defendant has not already been booked.

24 (5) A minimum payment by the defendant of two hundred
25 dollars (\$200) to be disbursed as specified in this paragraph. If,
26 after a hearing in court on the record, the court finds that the
27 defendant does not have the ability to pay, the court may reduce or
28 waive this fee.

29 One-third of the moneys deposited with the county treasurer
30 pursuant to this section shall be retained by counties and deposited
31 in the domestic violence programs special fund created pursuant
32 to Section 18305 of the Welfare and Institutions Code, to be
33 expended for the purposes of Chapter 5 (commencing with Section
34 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.
35 The remainder shall be transferred, once a month, to the Controller
36 for deposit in equal amounts in the Domestic Violence Restraining
37 Order Reimbursement Fund and in the Domestic Violence
38 Training and Education Fund, which are hereby created, in an
39 amount equal to two-thirds of funds collected during the preceding
40 month. Moneys deposited into these funds pursuant to this section

1 shall be available upon appropriation by the Legislature and shall
2 be distributed each fiscal year as follows:

3 (A) Funds from the Domestic Violence Restraining Order
4 Reimbursement Fund shall be distributed to local law enforcement
5 or other criminal justice agencies for state-mandated local costs
6 resulting from the notification requirements set forth in
7 subdivision (a) of Section 6385 of the Family Code, based on the
8 annual notification from the Department of Justice of the number
9 of restraining orders issued and registered in the state domestic
10 violence restraining order registry maintained by the Department
11 of Justice, for the development and maintenance of the domestic
12 violence restraining order data bank system.

13 (B) Funds from the Domestic Violence Training and Education
14 Fund shall support a statewide training and education program to
15 increase public awareness of domestic violence and to improve the
16 scope and quality of services provided to the victims of domestic
17 violence. Grants to support this program shall be awarded on a
18 competitive basis and be administered by the State Department of
19 Health Services, in consultation with the statewide domestic
20 violence coalition, which is eligible to receive funding under this
21 section.

22 (6) Successful completion of a batterer's program, as defined
23 in subdivision (c), or if none is available, another appropriate
24 counseling program designated by the court, for a period not less
25 than one year with periodic progress reports by the program to the
26 court every three months or less and weekly sessions of a minimum
27 of two hours class time duration.

28 (7) (A) (i) The court shall order the defendant to comply with
29 all probation requirements, including the requirements to attend
30 counseling, keep all program appointments, and pay program fees
31 based upon the ability to pay.

32 (ii) The terms of probation for offenders shall not be lifted until
33 all reasonable fees due to the counseling program have been paid
34 in full, but in no case shall probation be extended beyond the term
35 provided in subdivision (a) of Section 1203.1. If the court finds
36 that the defendant does not have the ability to pay the fees based
37 on the defendant's changed circumstances, the court may reduce
38 or waive the fees.

1 (B) Upon request by the batterer's program, the court shall
2 provide the defendant's arrest report, prior incidents of violence,
3 and treatment history to the program.

4 (8) The court also shall order the defendant to perform a
5 specified amount of appropriate community service, as designated
6 by the court. The defendant shall present the court with proof of
7 completion of community service and the court shall determine if
8 the community service has been satisfactorily completed. If
9 sufficient staff and resources are available, the community service
10 shall be performed under the jurisdiction of the local agency
11 overseeing a community service program.

12 (9) If the program finds that the defendant is unsuitable, the
13 program shall immediately contact the probation department or
14 the court. The probation department or court shall either
15 recalendar the case for hearing or refer the defendant to an
16 appropriate alternative batterer's program.

17 (10) (A) Upon recommendation of the program, a court shall
18 require a defendant to participate in additional sessions throughout
19 the probationary period, unless it finds that it is not in the interests
20 of justice to do so, states its reasons on the record, and enters them
21 into the minutes. In deciding whether the defendant would benefit
22 from more sessions, the court shall consider whether any of the
23 following conditions exist:

24 (i) The defendant has been violence free for a minimum of six
25 months.

26 (ii) The defendant has cooperated and participated in the
27 batterer's program.

28 (iii) The defendant demonstrates an understanding of and
29 practices positive conflict resolution skills.

30 (iv) The defendant blames, degrades, or has committed acts
31 that dehumanize the victim or puts at risk the victim's safety,
32 including, but not limited to, molesting, stalking, striking,
33 attacking, threatening, sexually assaulting, or battering the victim.

34 (v) The defendant demonstrates an understanding that the use
35 of coercion or violent behavior to maintain dominance is
36 unacceptable in an intimate relationship.

37 (vi) The defendant has made threats to harm anyone in any
38 manner.

1 (vii) The defendant has complied with applicable requirements
2 under paragraph (6) of subdivision (c) or subparagraph (C) to
3 receive alcohol counseling, drug counseling, or both.

4 (viii) The defendant demonstrates acceptance of responsibility
5 for the abusive behavior perpetrated against the victim.

6 (B) The program shall immediately report any violation of the
7 terms of the protective order, including any new acts of violence
8 or failure to comply with the program requirements, to the court,
9 the prosecutor, and, if formal probation has been ordered, to the
10 probation department. The probationer shall file proof of
11 enrollment in a batterer's program with the court within 30 days
12 of conviction.

13 (C) Concurrent with other requirements under this section, in
14 addition to, and not in lieu of, the batterer's program, and unless
15 prohibited by the referring court, the probation department or the
16 court may make provisions for a defendant to use his or her
17 resources to enroll in a chemical dependency program or to enter
18 voluntarily a licensed chemical dependency recovery hospital or
19 residential treatment program that has a valid license issued by the
20 state to provide alcohol or drug services to receive program
21 participation credit, as determined by the court. The probation
22 department shall document evidence of this hospital or residential
23 treatment participation in the defendant's program file.

24 (11) The conditions of probation may include, in lieu of a fine,
25 but not in lieu of the fund payment required under paragraph (5),
26 one or more of the following requirements:

27 (A) That the defendant make payments to a battered women's
28 shelter, up to a maximum of five thousand dollars (\$5,000).

29 (B) That the defendant reimburse the victim for reasonable
30 expenses that the court finds are the direct result of the defendant's
31 offense.

32 For any order to pay a fine, to make payments to a battered
33 women's shelter, or to pay restitution as a condition of probation
34 under this subdivision, the court shall make a determination of the
35 defendant's ability to pay. Determination of a defendant's ability
36 to pay may include his or her future earning capacity. A defendant
37 shall bear the burden of demonstrating lack of his or her ability to
38 pay. Express findings by the court as to the factors bearing on the
39 amount of the fine shall not be required. In no event shall any order
40 to make payments to a battered women's shelter be made if it

1 would impair the ability of the defendant to pay direct restitution
2 to the victim or court-ordered child support. When the injury to a
3 married person is caused in whole or in part by the criminal acts
4 of his or her spouse in violation of this section, the community
5 property shall not be used to discharge the liability of the offending
6 spouse for restitution to the injured spouse, as required by Section
7 1203.04, as operative on or before August 2, 1995, or Section
8 1202.4, or to a shelter for costs with regard to the injured spouse,
9 until all separate property of the offending spouse is exhausted.

10 (12) If it appears to the prosecuting attorney, the court, or the
11 probation department that the defendant is performing
12 unsatisfactorily in the assigned program, is not benefiting from
13 counseling, or has engaged in criminal conduct, upon request of
14 the probation officer, the prosecuting attorney, or on its own
15 motion, the court, as a priority calendar item, shall hold a hearing
16 to determine whether further sentencing should proceed. The court
17 may consider factors, including, but not limited to, any violence
18 by the defendant against the former or a new victim while on
19 probation and noncompliance with any other specific condition of
20 probation. If the court finds that the defendant is not performing
21 satisfactorily in the assigned program, is not benefiting from the
22 program, has not complied with a condition of probation, or has
23 engaged in criminal conduct, the court shall terminate the
24 defendant's participation in the program and shall proceed with
25 further sentencing.

26 (b) If a person is granted formal probation for a crime in which
27 the victim is a person defined in Section 6211 of the Family Code,
28 in addition to the terms specified in subdivision (a), all of the
29 following shall apply:

30 (1) The probation department shall make an investigation and
31 take into consideration the defendant's age, medical history,
32 employment and service records, educational background,
33 community and family ties, prior incidents of violence, police
34 report, treatment history, if any, demonstrable motivation, and
35 other mitigating factors in determining which batterer's program
36 would be appropriate for the defendant. This information shall be
37 provided to the batterer's program if it is requested. The probation
38 department shall also determine which community programs the
39 defendant would benefit from and which of those programs would

1 accept the defendant. The probation department shall report its
2 findings and recommendations to the court.

3 (2) The court shall advise the defendant that the failure to report
4 to the probation department for the initial investigation, as directed
5 by the court, or the failure to enroll in a specified program, as
6 directed by the court or the probation department, shall result in
7 possible further incarceration. The court, in the interests of justice,
8 may relieve the defendant from the prohibition set forth in this
9 subdivision based upon the defendant's mistake or excusable
10 neglect. Application for this relief shall be filed within 20 court
11 days of the missed deadline. This time limitation may not be
12 extended. A copy of any application for relief shall be served on
13 the office of the prosecuting attorney.

14 (3) After the court orders the defendant to a batterer's program,
15 the probation department shall conduct an initial assessment of the
16 defendant, including, but not limited to, all of the following:

17 (A) Social, economic, and family background.

18 (B) Education.

19 (C) Vocational achievements.

20 (D) Criminal history.

21 (E) Medical history.

22 (F) Substance abuse history.

23 (G) Consultation with the probation officer.

24 (H) Verbal consultation with the victim, only if the victim
25 desires to participate.

26 (I) Assessment of the future probability of the defendant
27 committing murder.

28 (4) The probation department shall attempt to notify the victim
29 regarding the requirements for the defendant's participation in the
30 batterer's program, as well as regarding available victim
31 resources. The victim also shall be informed that attendance in any
32 program does not guarantee that an abuser will not be violent.

33 (c) The court or the probation department shall refer
34 defendants only to batterer's programs that follow standards
35 outlined in paragraph (1), which may include, but are not limited
36 to, lectures, classes, group discussions, and counseling. The
37 probation department shall design and implement an approval and
38 renewal process for batterer's programs and shall solicit input
39 from criminal justice agencies and domestic violence victim
40 advocacy programs.

1 (1) The goal of a batterer's program under this section shall be
2 to stop domestic violence. A batterer's program shall consist of the
3 following components:

4 (A) Strategies to hold the defendant accountable for the
5 violence in a relationship, including, but not limited to, providing
6 the defendant with a written statement that the defendant shall be
7 held accountable for acts or threats of domestic violence.

8 (B) A requirement that the defendant participate in ongoing
9 same-gender group sessions.

10 (C) An initial intake that provides written definitions to the
11 defendant of physical, emotional, sexual, economic, and verbal
12 abuse, and the techniques for stopping these types of abuse.

13 (D) Procedures to inform the victim regarding the
14 requirements for the defendant's participation in the intervention
15 program as well as regarding available victim resources. The
16 victim also shall be informed that attendance in any program does
17 not guarantee that an abuser will not be violent.

18 (E) A requirement that the defendant attend group sessions free
19 of chemical influence.

20 (F) Educational programming that examines, at a minimum,
21 gender roles, socialization, the nature of violence, the dynamics of
22 power and control, and the effects of abuse on children and others.

23 (G) A requirement that excludes any couple counseling or
24 family counseling, or both.

25 (H) Procedures that give the program the right to assess
26 whether or not the defendant would benefit from the program and
27 to refuse to enroll the defendant if it is determined that the
28 defendant would not benefit from the program, so long as the
29 refusal is not because of the defendant's inability to pay. If
30 possible, the program shall suggest an appropriate alternative
31 program.

32 (I) Program staff who, to the extent possible, have specific
33 knowledge regarding, but not limited to, spousal abuse, child
34 abuse, sexual abuse, substance abuse, the dynamics of violence
35 and abuse, the law, and procedures of the legal system.

36 (J) Program staff who are encouraged to utilize the expertise,
37 training, and assistance of local domestic violence centers.

38 (K) A requirement that the defendant enter into a written
39 agreement with the program, which shall include an outline of the
40 contents of the program, the attendance requirements, the

1 requirement to attend group sessions free of chemical influence,
2 and a statement that the defendant may be removed from the
3 program if it is determined that the defendant is not benefiting
4 from the program or is disruptive to the program.

5 (L) A requirement that the defendant sign a confidentiality
6 statement prohibiting disclosure of any information obtained
7 through participating in the program or during group sessions
8 regarding other participants in the program.

9 (M) Program content that provides cultural and ethnic
10 sensitivity.

11 (N) A requirement of a written referral from the court or
12 probation department prior to permitting the defendant to enroll in
13 the program. The written referral shall state the number of
14 minimum sessions required by the court.

15 (O) Procedures for submitting to the probation department all
16 of the following uniform written responses:

17 (i) Proof of enrollment, to be submitted to the court and the
18 probation department and to include the fee determined to be
19 charged to the defendant, based upon the ability to pay, for each
20 session.

21 (ii) Periodic progress reports that include attendance, fee
22 payment history, and program compliance.

23 (iii) Final evaluation that includes the program's evaluation of
24 the defendant's progress, using the criteria set forth in paragraph
25 (4) of subdivision (a) and recommendation for either successful or
26 unsuccessful termination or continuation in the program.

27 (P) A sliding fee schedule based on the defendant's ability to
28 pay. The batterer's program shall develop and utilize a sliding fee
29 scale that recognizes both the defendant's ability to pay and the
30 necessity of programs to meet overhead expenses. An indigent
31 defendant may negotiate a deferred payment schedule, but shall
32 pay a nominal fee, if the defendant has the ability to pay the
33 nominal fee. Upon a hearing and a finding by the court that the
34 defendant does not have the financial ability to pay the nominal
35 fee, the court shall waive this fee. The payment of the fee shall be
36 made a condition of probation if the court determines the
37 defendant has the present ability to pay the fee. The fee shall be
38 paid during the term of probation unless the program sets other
39 conditions. The acceptance policies shall be in accordance with the
40 scaled fee system.

1 (2) The court shall refer persons only to batterer's programs
2 that have been approved by the probation department pursuant to
3 paragraph (5). The probation department shall do both of the
4 following:

5 (A) Provide for the issuance of a provisional approval,
6 provided that the applicant is in substantial compliance with
7 applicable laws and regulations and an urgent need for approval
8 exists. A provisional approval shall be considered an authorization
9 to provide services and shall not be considered a vested right.

10 (B) If the probation department determines that a program is
11 not in compliance with standards set by the department, the
12 department shall provide written notice of the noncompliant areas
13 to the program. The program shall submit a written plan of
14 corrections within 14 days from the date of the written notice on
15 noncompliance. A plan of correction shall include, but not be
16 limited to, a description of each corrective action and timeframe
17 for implementation. The department shall review and approve all
18 or any part of the plan of correction and notify the program of
19 approval or disapproval in writing. If the program fails to submit
20 a plan of correction or fails to implement the approved plan of
21 correction, the department shall consider whether to revoke or
22 suspend approval and, upon revoking or suspending approval,
23 shall have the option to cease referrals of defendants under this
24 section.

25 (3) No program, regardless of its source of funding, shall be
26 approved unless it meets all of the following standards:

27 (A) The establishment of guidelines and criteria for education
28 services, including standards of services that may include lectures,
29 classes, and group discussions.

30 (B) Supervision of the defendant for the purpose of evaluating
31 the person's progress in the program.

32 (C) Adequate reporting requirements to ensure that all persons
33 who, after being ordered to attend and complete a program, may
34 be identified for either failure to enroll in, or failure to successfully
35 complete, the program or for the successful completion of the
36 program as ordered. The program shall notify the court and the
37 probation department in writing within the period of time and in
38 the manner specified by the court of any person who fails to
39 complete the program. Notification shall be given if the program
40 determines that the defendant is performing unsatisfactorily or if



1 the defendant is not benefiting from the education, treatment, or
2 counseling.

3 (D) No victim shall be compelled to participate in a program or
4 counseling, and no program may condition a defendant's
5 enrollment on participation by the victim.

6 (4) In making referrals of indigent defendants to approved
7 batterer's programs, the probation department shall apportion
8 these referrals evenly among the approved programs.

9 (5) The probation department shall have the sole authority to
10 approve a batterer's program for probation. The program shall be
11 required to obtain only one approval but shall renew that approval
12 annually.

13 (A) The procedure for the approval of a new or existing
14 program shall include all of the following:

15 (i) The completion of a written application containing
16 necessary and pertinent information describing the applicant
17 program.

18 (ii) The demonstration by the program that it possesses
19 adequate administrative and operational capability to operate a
20 batterer's treatment program. The program shall provide
21 documentation to prove that the program has conducted batterer's
22 programs for at least one year prior to application. This
23 requirement may be waived under subparagraph (A) of paragraph
24 (2) if there is no existing batterer's program in the city, county, or
25 city and county.

26 (iii) The onsite review of the program, including monitoring of
27 a session to determine that the program adheres to applicable
28 statutes and regulations.

29 (iv) The payment of the approval fee.

30 (B) The probation department shall fix a fee for approval not
31 to exceed two hundred fifty dollars (\$250) and for approval
32 renewal not to exceed two hundred fifty dollars (\$250) every year
33 in an amount sufficient to cover its cost in administering the
34 approval process under this section. No fee shall be charged for the
35 approval of local governmental entities.

36 (C) The probation department has the sole authority to approve
37 the issuance, denial, suspension, or revocation of approval and to
38 cease new enrollments or referrals to a batterer's program under
39 this section. The probation department shall review information
40 relative to a program's performance or failure to adhere to

standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant's progress during his or her participation in the batterer's program.

~~SEC. 46.~~

SEC. 45. Section 1280.1 of the Penal Code is amended to read:

1280.1. (a) From the time of recording an affidavit for the justification of bail, the affidavit shall constitute an attachment lien governed by Sections 488.500, 488.510 and 489.310 of the Code of Civil Procedure in the amount of the bail undertaking, until exonerated, released, or otherwise discharged. Any release of the undertaking shall be effected by an order of the court, filed with the clerk of the court, with a certified copy of the order recorded in the office of the county recorder.

(b) If the bail is forfeited and summary judgment is entered, pursuant to Sections 1305 and 1306, the lien shall have the force and effect of a judgment lien, by recordation of an abstract of judgment, which, may be enforced and satisfied pursuant to Section 1306 as well as through the applicable execution process set forth in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

~~SEC. 47.~~

SEC. 46. Section 1382 of the Penal Code is amended to read:

1382. (a) The court, unless good cause to the contrary is shown, shall order the action to be dismissed in the following cases:

1 (1) When a person has been held to answer for a public offense
2 and an information is not filed against that person within 15 days.

3 (2) In a felony case, when a defendant is not brought to trial
4 within 60 days of the defendant's arraignment on an indictment or
5 information, or reinstatement of criminal proceedings pursuant to
6 Chapter 6 (commencing with Section 1367) of Title 10 of Part 2,
7 or, in case the cause is to be tried again following a mistrial, an
8 order granting a new trial from which an appeal is not taken, or an
9 appeal from the superior court, within 60 days after the mistrial has
10 been declared, after entry of the order granting the new trial, or
11 after the filing of the remittitur in the trial court, or after the
12 issuance of a writ or order which, in effect, grants a new trial,
13 within 60 days after notice of the writ or order is filed in the trial
14 court and served upon the prosecuting attorney, or within 90 days
15 after notice of the writ or order is filed in the trial court and served
16 upon the prosecuting attorney in any case where the district
17 attorney chooses to resubmit the case for a preliminary
18 examination after an appeal or the issuance of a writ reversing a
19 judgment of conviction upon a plea of guilty prior to a preliminary
20 hearing. However, an action shall not be dismissed under this
21 paragraph if either of the following circumstances exist:

22 (A) The defendant enters a general waiver of the 60-day trial
23 requirement. A general waiver of the 60-day trial requirement
24 entitles the superior court to set or continue a trial date without the
25 sanction of dismissal should the case fail to proceed on the date set
26 for trial. If the defendant, after proper notice to all parties, later
27 withdraws his or her waiver in the superior court, the defendant
28 shall be brought to trial within 60 days of the date of that
29 withdrawal. If a general time waiver is not expressly entered,
30 subparagraph (B) shall apply.

31 (B) The defendant requests or consents to the setting of a trial
32 date beyond the 60-day period. Whenever a case is set for trial
33 beyond the 60-day period by request or consent, expressed or
34 implied, of the defendant without a general waiver, the defendant
35 shall be brought to trial on the date set for trial or within 10 days
36 thereafter.

37 Whenever a case is set for trial after a defendant enters either a
38 general waiver as to the 60-day trial requirement or requests or
39 consents, expressed or implied, to the setting of a trial date beyond
40 the 60-day period pursuant to this paragraph, the court may not

1 grant a motion of the defendant to vacate the date set for trial and
2 to set an earlier trial date unless all parties are properly noticed and
3 the court finds good cause for granting that motion.

4 (3) Regardless of when the complaint is filed, when a defendant
5 in a misdemeanor or infraction case is not brought to trial within
6 30 days after he or she is arraigned or enters his or her plea,
7 whichever occurs later, or after reinstatement of criminal
8 proceedings pursuant to Chapter 6 (commencing with Section
9 1367) of Title 10 of Part 2, if the defendant is in custody at the time
10 of arraignment or plea, whichever occurs later, or in all other cases,
11 within 45 days after the defendant's arraignment or entry of the
12 plea, whichever occurs later, or after reinstatement of criminal
13 proceedings pursuant to Chapter 6 (commencing with Section
14 1367) of Title 10 of Part 2, or in case the cause is to be tried again
15 following a mistrial, an order granting a new trial from which no
16 appeal is taken, or an appeal from a judgment in a misdemeanor
17 or infraction case, within 30 days after the mistrial has been
18 declared, after entry of the order granting the new trial, or after the
19 remittitur is filed in the trial court. However, an action shall not be
20 dismissed under this subdivision if any of the following
21 circumstances exist:

22 (A) The defendant enters a general waiver of the 30-day or
23 45-day trial requirement. A general waiver of the 30-day or 45-day
24 trial requirement entitles the court to set or continue a trial date
25 without the sanction of dismissal should the case fail to proceed on
26 the date set for trial. If the defendant, after proper notice to all
27 parties, later withdraws his or her waiver, the defendant shall be
28 brought to trial within 30 days of the date of that withdrawal. If a
29 general time waiver is not expressly entered, subparagraph (B)
30 shall apply.

31 (B) The defendant requests or consents to the setting of a trial
32 date beyond the 30-day or 45-day period. In the absence of an
33 express general time waiver from the defendant, the court shall set
34 a trial date. Whenever a case is set for trial beyond the 30-day or
35 45-day period by request or consent, expressed or implied, of the
36 defendant without a general waiver, the defendant shall be brought
37 to trial on the date set for trial or within 10 days thereafter.

38 (C) The defendant in a misdemeanor case has been ordered to
39 appear on a case set for hearing prior to trial, but the defendant fails
40 to appear on that date and a bench warrant is issued, or the case is

not tried on the date set for trial because of the defendant's neglect or failure to appear, in which case the defendant shall be deemed to have been arraigned within the meaning of this subdivision on the date of his or her subsequent arraignment on a bench warrant or his or her submission to the court.

(b) Whenever a defendant has been ordered to appear in superior court on a felony case set for trial or set for a hearing prior to trial after being held to answer, if the defendant fails to appear on that date and a bench warrant is issued, the defendant shall be brought to trial within 60 days after the defendant next appears in the superior court unless a trial date previously had been set which is beyond that 60-day period.

(c) If the defendant is not represented by counsel, the defendant shall not be deemed under this section to have consented to the date for the defendant's trial unless the court has explained to the defendant his or her rights under this section and the effect of his or her consent.

~~SEC. 48.~~

SEC. 47. Section 1511 of the Penal Code, as added by Chapter 560 of the Statutes of 1989, is amended and renumbered to read:

1512. (a) In addition to petitions for a writ of mandate, prohibition, or review which the people are authorized to file pursuant to any other statute or pursuant to any court decision, the people may also seek review of an order granting a defendant's motion for severance or discovery by a petition for a writ of mandate or prohibition.

(b) In construing the legislative intent of subdivision (a), no inference shall be drawn from the amendment to Assembly Bill 1052 of the 1989–90 Regular Session of the Legislature which deleted reference to the case of *People v. Superior Court*, 69 Cal. 2d 491.

~~SEC. 49.~~

SEC. 48. Section 2677 of the Penal Code is amended to read:

2677. At the time of filing of a petition pursuant to Section 2676 by the person, or pursuant to Section 2675 by the warden, the court shall appoint the public defender or other attorney to represent the person unless the person is financially able to provide his or her own attorney. The attorney shall advise the person of his or her rights in relation to the proceeding in question and shall represent him or her before the court.

1 The court shall also appoint an independent medical expert on
2 the person's behalf to examine the person's medical, mental, or
3 emotional condition and to testify thereon, unless the person is
4 financially able to obtain the expert testimony. However, if the
5 person has given his or her informed consent to the proposed
6 organic therapy, other than psychosurgery as referred to in
7 subdivision (c) of Section 2670.5, and his or her attorney concurs
8 in the proposed administration of the organic therapy, the court
9 may waive the requirement that an independent medical expert be
10 appointed.

11 ~~SEC. 50.~~

12 *SEC. 49.* Section 2717.4 of the Penal Code is amended to
13 read:

14 2717.4. (a) There is hereby established within the
15 Department of Corrections the Joint Venture Policy Advisory
16 Board. The Joint Venture Policy Advisory Board shall consist of
17 the Director of Corrections, who shall serve as chair, the Director
18 of the Employment Development Department, and five members,
19 to be appointed by the Governor, three of whom shall be public
20 members, one of whom shall represent organized labor and one of
21 whom shall represent industry. Five members shall constitute a
22 quorum and a vote of the majority of the members in office shall
23 be necessary for the transaction of the business of the board.
24 Appointed members of the board shall be compensated at the rate
25 of two hundred dollars (\$200) for each day while on official
26 business of the board and shall be reimbursed for necessary
27 expenses. The initial terms of the members appointed by the
28 Governor shall be for one year (one member), two years (two
29 members), three years (one member), and four years (one
30 member), as determined by the Governor. After the initial term, all
31 members shall serve for four years.

32 (b) The board shall advise the Director of Corrections of
33 policies that further the purposes of the Prison Inmate Labor
34 Initiative of 1990 to be considered in the implementation of joint
35 venture programs.

36 ~~SEC. 51.~~

37 *SEC. 50.* Section 3000 of the Penal Code is amended to read:

38 3000. (a) (1) The Legislature finds and declares that the
39 period immediately following incarceration is critical to
40 successful reintegration of the offender into society and to positive

citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Prison Terms to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) Any finding made pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, that a person is a sexually violent predator shall not toll, discharge, or otherwise affect that person's period of parole.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree

1 murder for which the inmate has received a life sentence, and shall
2 not exceed three years in the case of any other inmate, unless in
3 either case the parole authority for good cause waives parole and
4 discharges the inmate from custody of the department. This
5 subdivision shall also be applicable to inmates who committed
6 crimes prior to July 1, 1977, to the extent specified in Section
7 1170.2.

8 (3) Notwithstanding paragraphs (1) and (2), in the case of any
9 offense for which the inmate has received a life sentence pursuant
10 to Section 667.61, the period of parole shall be five years. Upon
11 the request of the Department of Corrections, and on the grounds
12 that the paroled inmate may pose a substantial danger to public
13 safety, the Board of Prison Terms shall conduct a hearing to
14 determine if the parolee shall be subject to a single additional
15 five-year period of parole. The board shall conduct the hearing
16 pursuant to the procedures and standards governing parole
17 revocation. The request for parole extension shall be made no less
18 than 180 days prior to the expiration of the initial five-year period
19 of parole.

20 (4) The parole authority shall consider the request of any
21 inmate regarding the length of his or her parole and the conditions
22 thereof.

23 (5) Upon successful completion of parole, or at the end of the
24 maximum statutory period of parole specified for the inmate under
25 paragraph (1), (2), or (3), as the case may be, whichever is earlier,
26 the inmate shall be discharged from custody. The date of the
27 maximum statutory period of parole under this subdivision and
28 paragraphs (1), (2), and (3), shall be computed from the date of
29 initial parole or from the date of extension of parole pursuant to
30 paragraph (3) and shall be a period chronologically determined.
31 Time during which parole is suspended because the prisoner has
32 absconded or has been returned to custody as a parole violator shall
33 not be credited toward any period of parole unless the prisoner is
34 found not guilty of the parole violation. However, in no case,
35 except as provided in Section 3064, may a prisoner subject to three
36 years on parole be retained under parole supervision or in custody
37 for a period longer than four years from the date of his or her initial
38 parole, and, except as provided in Section 3064, in no case may a
39 prisoner subject to five years on parole be retained under parole
40 supervision or in custody for a period longer than seven years from

the date of his or her initial parole or from the date of extension of parole pursuant to paragraph (3).

(6) The Department of Corrections shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections or the Board of Prison Terms may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Prison Terms, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

~~SEC. 52.~~

SEC. 51. Section 3000.1 of the Penal Code is amended to read:

3000.1. (a) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned for first degree murder, and five years in the case of any person imprisoned for second degree murder, since release from confinement, the board shall, within 30 days, discharge that person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and transmit a copy of it to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(d) There shall be a hearing as provided in Sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph (2) of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(e) The provisions of Section 3042 shall not apply to any hearing held pursuant to this section.

~~SEC. 53.~~

SEC. 52. Section 3058.9 of the Penal Code is amended to read:

3058.9. (a) Whenever any person confined to state prison is serving a term for the conviction of child abuse pursuant to Section 273a, 273ab, 273d, or any sex offense identified in statute as being perpetrated against a minor victim, or as ordered by any court, the Board of Prison Terms, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170, shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person was convicted and, in addition, the sheriff or chief of police, or both, and the district attorney having jurisdiction over the community in which the person is scheduled to be released on parole or rereleased following a period of confinement pursuant to a parole revocation without a new commitment.

(b) (1) The notification shall be made by mail at least 45 days prior to the scheduled release date, except as provided in paragraph (3). In all cases, the notification shall include the name of the person who is scheduled to be released, whether or not the person is required to register with local law enforcement, and the community in which the person will reside. The notification shall specify the office within the Department of Corrections with the authority to make final determination and adjustments regarding parole location decisions.

1 (2) Notwithstanding any other provision of law, the
2 Department of Corrections shall not restore credits nor take any
3 administrative action resulting in an inmate being placed in a
4 greater credit earning category that would result in notification
5 being provided less than 45 days prior to an inmate's scheduled
6 release date.

7 (3) When notification cannot be provided within the 45 days
8 due to the unanticipated release date change of an inmate as a result
9 of an order from the court, an action by the Board of Prison Terms,
10 the granting of an administrative appeal, or a finding of not guilty
11 or dismissal of a disciplinary action, that affects the sentence of the
12 inmate, or due to a modification of the department's decision
13 regarding the community into which the person is scheduled to be
14 released pursuant to paragraph (4), the department shall provide
15 notification as soon as practicable, but in no case less than 24 hours
16 after the final decision is made regarding where the parolee will be
17 released.

18 (4) Those agencies receiving the notice referred to in this
19 subdivision may provide written comment to the board or
20 department regarding the impending release. Agencies that choose
21 to provide written comments shall respond within 30 days prior to
22 the inmate's scheduled release, unless an agency received less than
23 45 days' notice of the impending release, in which case the agency
24 shall respond as soon as practicable prior to the scheduled release.
25 Those comments shall be considered by the board or department,
26 which may, based on those comments, modify its decision
27 regarding the community in which the person is scheduled to be
28 released. The Department of Corrections shall respond in writing
29 not less than 15 days prior to the scheduled release with a final
30 determination as to whether to adjust the parole location and
31 documenting the basis for its decision, unless the department
32 received comments less than 30 days prior to the impending
33 release, in which case the department shall respond as soon as
34 practicable prior to the scheduled release. The comments shall
35 become a part of the inmate's file.

36 (c) If the court orders the immediate release of an inmate, the
37 department shall notify the sheriff or chief of police, or both, and
38 the district attorney, having jurisdiction over the community in
39 which the person was convicted and, in addition, the sheriff or
40 chief of police, or both, and the district attorney, having

1 jurisdiction over the community in which the person is scheduled
2 to be released on parole or released following a period of
3 confinement pursuant to a parole revocation without a new
4 commitment.

5 (d) The notification required by this section shall be made
6 whether or not a request has been made under Section 3058.5.

7 In no case shall notice required by this section to the appropriate
8 agency be later than the day of release on parole. If, after the
9 45-day notice is given to law enforcement and to the district
10 attorney relating to an out-of-county placement, there is change of
11 county placement, notice to the ultimate county of placement shall
12 be made upon the determination of the county of placement.

13 (e) The notice required by this section shall satisfy the notice
14 required by Section 3058.6 for any person whose offense is
15 identified in both sections.

16 ~~SEC. 54.~~

17 *SEC. 53.* Section 4011.1 of the Penal Code is amended to read:

18 4011.1. (a) Notwithstanding Section 29602 of the
19 Government Code and any other provisions of this chapter, a
20 county, city or the Department of the Youth Authority is authorized
21 to make claim for and recovery of the costs of necessary hospital,
22 medical, surgical, dental, or optometric care rendered to any
23 prisoner confined in a county or city jail or any juvenile confined
24 in a detention facility, who would otherwise be entitled to that care
25 under the Medi-Cal Act (Chapter 7 (commencing with Section
26 14000) Part 3, Division 9, of the Welfare and Institutions Code),
27 and who is eligible for that care on the first day of confinement or
28 detention, to the extent that federal financial participation is
29 available, or under the provisions of any private program or policy
30 for that care, and the county, city or the Department of the Youth
31 Authority shall be liable only for the costs of that care as cannot
32 be recovered pursuant to this section. No person who is eligible for
33 Medi-Cal shall be eligible for benefits under the provisions of this
34 section, and no county or city or the Department of the Youth
35 Authority is authorized to make a claim for any recovery of costs
36 for services for that person, unless federal financial participation
37 is available for all or part of the costs of providing services to that
38 person under the Medi-Cal Act.

39 Notwithstanding any other provision of law, any county or city
40 making a claim pursuant to this section and under the Medi-Cal

1 Act shall reimburse the Health Care Deposit Fund for the state
2 costs of paying those medical claims. Funds allocated to the county
3 from the County Health Services Fund pursuant to Part 4.5
4 (commencing with Section 16700) of Division 9 of the Welfare
5 and Institutions Code may be utilized by the county or city to make
6 that reimbursement.

7 (b) Notwithstanding Section 29602 of the Government Code
8 and any other provisions of this chapter, to the extent that recovery
9 of costs of necessary hospital, medical, surgical, dental, or
10 optometric care are not accomplished under subdivision (a), a
11 county, city, or the Department of the Youth Authority is
12 authorized to make claim for and recover from a prisoner or a
13 person legally responsible for a prisoner's care and maintenance
14 the costs of necessary hospital, medical, surgical, dental, or
15 optometric care rendered to any prisoner confined in a county or
16 city jail, or any juvenile confined in a detention facility, where the
17 prisoner or the person legally responsible for the prisoner's care
18 and maintenance is financially able to pay for the prisoner's care,
19 support, and maintenance. Nothing in this subdivision shall be
20 construed to authorize a city, a county, or the Department of the
21 Youth Authority to make a claim against a spouse of a prisoner.

22 (c) Necessary hospital, medical, dental, or optometric care, as
23 used in this section, does not include care rendered with respect to
24 an injury occurring during confinement in a county or city jail or
25 juvenile detention facility, nor does it include any care or testing
26 mandated by law.

27 (d) Subdivisions (b) and (c) shall apply only where there has
28 been a determination of the present ability of the prisoner or
29 responsible third party to pay all or a portion of the cost of
30 necessary hospital, medical, surgical, dental, or optometric care.
31 The person legally responsible for the prisoner's care shall provide
32 a financial disclosure statement, executed under penalty of
33 perjury, based on his or her past year's income tax return, to the
34 Department of the Youth Authority. The city, county, or
35 Department of the Youth Authority may request that the prisoner
36 appear before a designated hearing officer for an inquiry into the
37 ability of the prisoner or responsible third party to pay all or part
38 of the cost of the care provided.

39 (e) Notice of this request shall be provided to the prisoner or
40 responsible third party, which shall contain the following:

1 (1) A statement of the cost of the care provided to the prisoner.

2 (2) The prisoner's or responsible third party's procedural rights
3 under this section.

4 (3) The time limit within which the prisoner or responsible
5 third party may respond.

6 (4) A warning that if the prisoner or responsible third party fails
7 to appear before, or respond to, the designated officer, the officer
8 may petition the court for an order requiring him or her to make
9 payment of the full cost of the care provided to the prisoner.

10 (f) At the hearing, the prisoner or responsible third party shall
11 be entitled to, but shall not be limited to, all of the following rights:

12 (1) The right to be heard in person.

13 (2) The right to present witnesses and documentary evidence.

14 (3) The right to confront and cross-examine adverse witnesses.

15 (4) The right to have adverse evidence disclosed to him or her.

16 (5) The right to a written statement of the findings of the
17 designated hearing officer.

18 (g) If the hearing officer determines that the prisoner or
19 responsible third party has the present ability to pay all or a part
20 of the cost, the officer shall set the amount to be reimbursed, and
21 shall petition the court to order the prisoner or responsible third
22 party to pay the sum to the city, county, or state, in the manner in
23 which it finds reasonable and compatible to the prisoner's or
24 responsible third party's financial ability. The court's order shall
25 be enforceable in the manner provided for money judgments in a
26 civil action under the Code of Civil Procedure.

27 (h) At any time prior to satisfaction of the judgment rendered
28 according to the terms of this section, a prisoner or responsible
29 third party against whom a judgment has been rendered, may
30 petition the rendering court for a modification of the previous
31 judgment on the grounds of a change of circumstance with regard
32 to his or her ability to pay the judgment. The prisoner or
33 responsible third party shall be advised of this right at the time the
34 original judgment is rendered.

35 (i) As used in this section, "ability to pay" means the overall
36 capacity of the prisoner or responsible third party to reimburse the
37 costs, or a portion of the costs, of the care provided to the prisoner,
38 and shall include, but not be limited to, all of the following:

39 (1) The prisoner's or responsible third party's present financial
40 position.

1 (2) The prisoner's or responsible third party's discernible
2 future financial position.

3 (3) The likelihood that the prisoner or responsible third party
4 will be able to obtain employment in the future.

5 (4) Any other factor or factors which may bear upon the
6 prisoner's or responsible third party's financial position.

7 ~~SEC. 55.~~

8 *SEC. 54.* Section 5058.5 of the Penal Code, as added by
9 Chapter 695 of the Statutes of 1992, is amended and renumbered
10 to read:

11 5058.6. The Director of the Department of Corrections shall
12 have the authority of a head of a department set forth in subdivision
13 (e) of Section 11181 of the Government Code to issue subpoenas
14 as provided in Article 2 (commencing with Section 11180) of
15 Chapter 2 of Division 3 of Title 2 of the Government Code. The
16 department shall adopt regulations on the policies and guidelines
17 for the issuance of subpoenas.

18 ~~SEC. 56.~~

19 *SEC. 55.* Section 6008 of the Penal Code is amended to read:

20 6008. The Department of Corrections, the Department of the
21 Youth Authority, the Board of Prison Terms, and the Youthful
22 Offender Parole Board shall report to the State Department of
23 Health Services the results of the tuberculosis examinations
24 required by Section 6006.

25 ~~SEC. 57.~~

26 *SEC. 56.* Section 6126.5 of the Penal Code is amended to
27 read:

28 6126.5. (a) Notwithstanding any other provision of law, the
29 Inspector General during regular business hours or at any other
30 time determined necessary by the Inspector General, shall have
31 access to and authority to examine and reproduce, any and all
32 books, accounts, reports, vouchers, correspondence files,
33 documents, and other records, and to examine the bank accounts,
34 money, or other property, of any entity defined in Section 6126 for
35 any audit or investigation. Any officer or employee of any agency
36 or entity having these records or property in his or her possession
37 or under his or her control shall permit access to, and examination
38 and reproduction thereof consistent with the provisions of this
39 section, upon the request of the Inspector General or his or her
40 authorized representative.

(b) For the purposes of access, examination, and reproduction as provided in subdivision (a), an authorized representative of the Inspector General is an employee or officer of the agency or public entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the agency or public entity. For the purpose of conducting any audit or investigation, the Inspector General or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for the confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a).

(c) Any officer or person who fails or refuses to permit access, examination, or reproduction, as required by this section, is guilty of a misdemeanor.

(d) The Inspector General may require any employee of those entities specified in Section 6126 to be interviewed on a confidential basis. Any employee requested to be interviewed shall comply and shall have time afforded by the appointing authority for the purpose of an interview with the Inspector General or his or her designee. Any record created by an interview shall be deemed confidential for use by the Inspector General and the Secretary of the Youth and Adult Correctional Agency only. It is not the purpose of these communications to address disciplinary action or grievance procedures that may routinely occur. If it appears that the facts of the case could lead to punitive action, the Inspector General shall be subject to the provisions of the Public Safety Officers Procedural Bill of Rights Act (Section 3300 of the Government Code et seq.) as if the Inspector General were the employer.

~~SEC. 58.~~

SEC. 57. Section 6236 of the Penal Code is amended to read: 6236. This chapter shall be known as “Restitution Centers.”

~~SEC. 59.~~

SEC. 58. Section 7012 of the Penal Code is amended to read:

1 7012. (a) The Department of Corrections shall submit to the
2 Joint Legislative Prison Committee, the State Public Works Board,
3 the appropriate county board of supervisors, and the local city
4 council at least 30 days prior to the acquisition of real property for
5 prison facilities to be located in Riverside and Del Norte Counties,
6 an environmental assessment study, which shall include a
7 discussion of impacts and mitigation measures, if necessary, for
8 the following areas:

- 9 (1) Geology.
- 10 (2) Hydrology-groundwater.
- 11 (3) Water quality-surface waters.
- 12 (4) Plant and animal life-endangered and rare species.
- 13 (5) Air quality.
- 14 (6) Noise.
- 15 (7) Light and glare.
- 16 (8) Utilities-gas, electricity, telephone, solid waste, sewage
17 disposal, and drinking water.
- 18 (9) Archaeology.
- 19 (10) Energy.

20 (b) The factors set forth in subdivision (a) shall be assessed
21 only as they relate to the direct impacts caused off the site as a
22 result of the construction, operation, and maintenance of the prison
23 facility upon completion and occupancy.

24 (c) Notwithstanding any other provision of law, other than
25 Section 7003, the approval of the study by the State Public Works
26 Board is the only approval required for compliance with any
27 applicable environmental requirements. The Public State Works
28 Board shall not act on the study until it receives a recommendation
29 from the Joint Legislative Prison Committee. Approval of the
30 study by the State Public Works Board shall be final and binding
31 on all parties.

32 (d) If the committee does not, by a majority vote of the
33 committee membership, take any action on the study within 30
34 days after submittal, that inaction shall be deemed to be a
35 recommendation of concurrence for the purposes of this section.

36 (e) Prior to providing a recommendation to the State Public
37 Works Board, but within the 30-day period specified in
38 subdivision (d), the committee shall hold a public hearing in the
39 community in the vicinity of the proposed site. Notice of the
40 hearing shall be published in a newspaper of general circulation in,

1 or adjacent to, that community. The notice shall be at least
2 one-quarter page in size. The city council and the county board of
3 supervisors shall be invited to participate in the hearing.

4 ~~SEC. 60.~~

5 *SEC. 59.* Section 11180 of the Penal Code is amended to read:
6 11180. The Interstate Compact for Adult Offender
7 Supervision as contained herein is hereby enacted into law and
8 entered into on behalf of the state with any and all other states
9 legally joining therein in a form substantially as follows:

10
11 Preamble

12
13 Whereas: The interstate compact for the supervision of
14 Parolees and Probationers was established in 1937. It is the earliest
15 corrections “compact” established among the states and has not
16 been amended since its adoption over 62 years ago.

17 Whereas: This compact is the only vehicle for the controlled
18 movement of adult parolees and probationers across state lines and
19 it currently has jurisdiction over more than a quarter of a million
20 offenders.

21 Whereas: The complexities of the compact have become
22 more difficult to administer, and many jurisdictions have
23 expanded supervision expectations to include currently
24 unregulated practices such as victim input, victim notification
25 requirements, and sex offender registration.

26 Whereas: After hearings, national surveys, and a detailed
27 study by a task force appointed by the National Institute of
28 Corrections, the overwhelming recommendation has been to
29 amend the document to bring about an effective management
30 capacity that addresses public safety concerns and offender
31 accountability.

32 Whereas: Upon the adoption of this Interstate Compact for
33 Adult Offender Supervision, it is the intention of the Legislature
34 to repeal the previous Interstate Compact for the Supervision of
35 Parolees and Probationers on the effective date of this Compact.

36
37 Be it enacted by the General Assembly (Legislature) of the state
38 of California.
39

1 Short title: This Act may be cited as The Interstate Compact
2 for Adult Offender Supervision.

3
4 Article I. Purpose
5

6 The compacting states to this Interstate Compact recognize that
7 each state is responsible for the supervision of adult offenders in
8 the community who are authorized pursuant to the Bylaws and
9 Rules of this compact to travel across state lines both to and from
10 each compacting state in ~~such~~ a manner *so* as to track the location
11 of offenders, transfer supervision authority in an orderly and
12 efficient manner, and when necessary return offenders to the
13 originating jurisdictions. The compacting states also recognize
14 that Congress, by enacting the Crime Control Act, 4 U.S.C.
15 Section 112 (1965), has authorized and encouraged compacts for
16 cooperative efforts and mutual assistance in the prevention of
17 crime. It is the purpose of this compact and the Interstate
18 Commission created hereunder, through means of joint and
19 cooperative action among the compacting states: to provide the
20 framework for the promotion of public safety and protect the rights
21 of victims through the control and regulation of the interstate
22 movement of offenders in the community; to provide for the
23 effective tracking, supervision, and rehabilitation of these
24 offenders by the sending and receiving states; and to equitably
25 distribute the costs, benefits, and obligations of the compact
26 among the compacting states. In addition, this compact will: create
27 an Interstate Commission which will establish uniform procedures
28 to manage the movement between states of adults placed under
29 community supervision and released to the community under the
30 jurisdiction of courts, paroling authorities, corrections or other
31 criminal justice agencies which will promulgate rules to achieve
32 the purpose of this compact; ensure an opportunity for input and
33 timely notice to victims and to jurisdictions where defined
34 offenders are authorized to travel or to relocate across state lines;
35 establish a system of uniform data collection, access to
36 information on active cases by authorized criminal justice
37 officials, and regular reporting of Compact activities to heads of
38 state councils, state executive, judicial, and legislative branches
39 and criminal justice administrators; monitor compliance with
40 rules governing interstate movement of offenders and initiate

1 interventions to address and correct non-compliance; and
2 coordinate training and education regarding regulations of
3 interstate movement of offenders for officials involved in ~~such~~
4 ~~activity~~ *these types of activities*. The compacting states recognize
5 that there is no “right” of any offender to live in another state and
6 that duly accredited officers of a sending state may at all times
7 enter a receiving state and there apprehend and retake any offender
8 under supervision subject to the provisions of this compact and
9 Bylaws and Rules promulgated hereunder. It is the policy of the
10 compacting states that the activities conducted by the Interstate
11 Commission created herein are the formation of public policies
12 and are therefore public business.

13

14 Article II. Definitions

15

16 As used in this compact, unless the context clearly requires a
17 different construction:

18 “Adult” means both individuals legally classified as adults and
19 juveniles treated as adults by court order, statute, or operation of
20 law.

21 “By-laws” mean those by-laws established by the Interstate
22 Commission for its governance, or for directing or controlling the
23 Interstate Commission’s actions or conduct.

24 “Compact Administrator” means the individual in each
25 compacting state appointed pursuant to the terms of this compact
26 responsible for the administration and management of the state’s
27 supervision and transfer of offenders subject to the terms of this
28 compact, the rules adopted by the Interstate Commission and
29 policies adopted by the State Council under this compact.

30 “Compacting state” means any state which has enacted the
31 enabling legislation for this compact.

32 “Commissioner” means the voting representative of each
33 compacting state appointed pursuant to Article III of this compact.

34 “Interstate Commission” means the Interstate Commission for
35 Adult Offender Supervision established by this compact.

36 “Member” means the commissioner of a compacting state or
37 designee, who shall be a person officially connected with the
38 commissioner.

39 “Non Compacting state” means any state which has not enacted
40 the enabling legislation for this compact.



“Offender” means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

“Person” means any individual, corporation, business enterprise, or other legal entity, either public or private.

“Rules” means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

“State” means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

“State Council” means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

Article III. The Compact Commission

The compacting states hereby create the “Interstate Commission for Adult Offender Supervision.”

The Interstate Commission shall be a body corporate and joint agency of the compacting states.

The Interstate Commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and ~~such~~ *whatever* additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of the State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations; ~~such non-commissioner~~ *these noncommissioner* members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate

1 Commission shall be ex-officio (nonvoting) members. The
2 Interstate Commission may provide in its by-laws for ~~such~~ *these*
3 additional, ex-officio, ~~non-voting~~ *nonvoting* members as it deems
4 necessary. Each compacting state represented at any meeting of the
5 Interstate Commission is entitled to one vote. A majority of the
6 compacting states shall constitute a quorum for the transaction of
7 business, unless a larger quorum is required by the by-laws of the
8 Interstate Commission. The Interstate Commission shall meet at
9 least once each calendar year. The chairperson may call additional
10 meetings and, upon the request of 27 or more compacting states,
11 shall call additional meetings. Public notice shall be given of all
12 meetings and meetings shall be open to the public.

13 The Interstate Commission shall establish an Executive
14 Committee which shall include commission officers, members
15 and others as shall be determined by the By-laws. The Executive
16 Committee shall have the power to act on behalf of the Interstate
17 Commission during periods when the Interstate Commission is not
18 in session, with the exception of rulemaking and/or amendment to
19 the Compact. The Executive Committee oversees the day-to-day
20 activities managed by the Executive Director and Interstate
21 Commission staff; administers enforcement and compliance with
22 the provisions of the compact, its by-laws and as directed by the
23 Interstate Commission and performs other duties as directed by the
24 Commission or set forth in the By-laws.

25

26 Article IV. The State Council

27

28 Each member state shall create a State Council for Interstate
29 Adult Offender Supervision which shall be responsible for the
30 appointment of the commissioner who shall serve on the Interstate
31 Commission from that state. Each state council shall appoint as its
32 commissioner the Compact Administrator from that state to serve
33 on the Interstate Commission in ~~such~~ *this* capacity under or
34 pursuant to applicable law of the member state. While each
35 member state may determine the membership of its own state
36 council, its membership must include at least one representative
37 from the legislative, judicial, and executive branches of
38 government, victims groups and compact administrators. Each
39 compacting state retains the right to determine the qualifications
40 of the Compact Administrator who shall be appointed by the state



1 council or by the Governor in consultation with the Legislature and
2 the Judiciary. In addition to appointment of its commissioner to the
3 National Interstate Commission, each state council shall exercise
4 oversight and advocacy concerning its participation in Interstate
5 Commission activities and other duties as may be determined by
6 each member state, including, but not limited to, development of
7 policy concerning operations and procedures of the compact
8 within that state.

9
10 Article V. Powers and Duties of the Interstate Commission

11
12 The Interstate Commission shall have the following powers:

13 To adopt a seal and suitable by-laws governing the management
14 and operation of the Interstate Commission.

15 To promulgate rules which shall have the force and effect of
16 statutory law and shall be binding in the compacting states to the
17 extent and in the manner provided in this compact.

18 To oversee, supervise and coordinate the interstate movement
19 of offenders subject to the terms of this compact and any by-laws
20 adopted and rules promulgated by the compact commission.

21 To enforce compliance with compact provisions, Interstate
22 Commission rules, and by-laws, using all necessary and proper
23 means, including, but not limited to, the use of judicial process.

24 To establish and maintain offices.

25 To purchase and maintain insurance and bonds.

26 To borrow, accept, or contract for services of personnel,
27 including, but not limited to, members and their staffs.

28 To establish and appoint committees and hire staff which it
29 deems necessary for the carrying out of its functions including, but
30 not limited to, an executive committee as required by Article III
31 which shall have the power to act on behalf of the Interstate
32 Commission in carrying out its powers and duties hereunder.

33 To elect or appoint ~~such~~ officers, attorneys, employees, agents,
34 or consultants, and to fix their compensation, define their duties
35 and determine their qualifications; and to establish the Interstate
36 Commission's personnel policies and programs relating to, among
37 other things, conflicts of interest, rates of compensation, and
38 qualifications of personnel.

1 To accept any and all donations and grants of money,
2 equipment, supplies, materials, and services, and to receive,
3 utilize, and dispose of same.

4 To lease, purchase, accept contributions or donations of, or
5 otherwise to own, hold, improve or use any property, real,
6 personal, or mixed.

7 To sell, convey, mortgage, pledge, lease, exchange, abandon, or
8 otherwise dispose of any property, real, personal or mixed.

9 To establish a budget and make expenditures and levy dues as
10 provided in Article X of this compact.

11 To sue and be sued.

12 To provide for dispute resolution among Compacting States.

13 To perform ~~such~~ *whatever* functions as may be necessary or
14 appropriate to achieve the purposes of this compact.

15 To report annually to the legislatures, governors, judiciary, and
16 state councils of the compacting states concerning the activities of
17 the Interstate Commission during the preceding year. ~~Such~~ *These*
18 reports shall also include any recommendations that may have
19 been adopted by the Interstate Commission.

20 To coordinate education, training and public awareness
21 regarding the interstate movement of offenders for officials
22 involved in ~~such activity~~ *these activities*.

23 To establish uniform standards for the reporting, collecting, and
24 exchanging of data.

25

26 Article VI. Organization and Operation of the Interstate
27 Commission
28

29

30 Section A. By-laws

31 The Interstate Commission shall, by a majority of the Members,
32 within twelve months of the first Interstate Commission meeting,
33 adopt By-laws to govern its conduct as may be necessary or
34 appropriate to carry out the purposes of the Compact, including,
35 but not limited to:

36 Establishing the fiscal year of the Interstate Commission.

37 Establishing an executive committee and ~~such~~ other committees
38 as may be necessary.

39 Providing reasonable standards and procedures:

(i) For the establishment of committees.



(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission; providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each ~~such~~ meeting; establishing the titles and responsibilities of the officers of the Interstate Commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations; providing transition rules for “start up” administration of the compact; establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have ~~such~~ authorities and duties as may be specified in the By-laws. The chairperson, or in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for ~~such a~~ period, upon ~~such~~ terms and conditions and for ~~such~~ compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise ~~such~~ other staff as may be authorized by the Interstate Commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

1 The Interstate Commission shall maintain its corporate books
2 and records in accordance with the By-laws.

3 Section D. Qualified Immunity, Defense and Indemnification

4 The Members, officers, executive director and employees of the
5 Interstate Commission shall be immune from suit and liability,
6 either personally or in their official capacity, for any claim for
7 damage to or loss of property or personal injury or other civil
8 liability caused or arising out of any actual or alleged act, error or
9 omission that occurred within the scope of Interstate Commission
10 employment, duties or responsibilities; provided, that nothing in
11 this paragraph shall be construed to protect ~~any such person~~
12 *anyone* from suit and/or liability for any damage, loss, injury or
13 liability caused by ~~the~~ *their* intentional or willful and wanton
14 misconduct of ~~any such person~~. The Interstate Commission shall
15 defend the Commissioner of a Compacting State, or his or her
16 representatives or employees, or the Interstate Commission's
17 representatives or employees, in any civil action seeking to impose
18 liability, arising out of any actual or alleged act, error or omission
19 that occurred within the scope of Interstate Commission
20 employment, duties or responsibilities, or that the defendant had
21 a reasonable basis for believing occurred within the scope of
22 Interstate Commission employment, duties or responsibilities;
23 provided, that the actual or alleged act, error or omission did not
24 result from intentional wrongdoing on the part of ~~such that~~ person.

25 The Interstate Commission shall indemnify and hold the
26 Commissioner of a Compacting State, the appointed designee or
27 employees, or the Interstate Commission's representatives or
28 employees, harmless in the amount of any settlement or judgement
29 obtained against ~~such persons~~ *anyone* arising out of any actual or
30 alleged act, error or omission that occurred within the scope of
31 Interstate Commission employment, duties or responsibilities, or
32 that ~~such persons~~ *person* had a reasonable basis for believing
33 occurred within the scope of Interstate Commission employment,
34 duties or responsibilities, provided, that the actual or alleged act,
35 error or omission did not result from gross negligence or
36 intentional wrongdoing on the part of ~~such the~~ person.

37



Article VII. Activities of the Interstate Commission

The Interstate Commission shall meet and take ~~such~~ *whatever* actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, ~~such~~ *the* act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The By-laws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's By-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating—~~such~~ *the* Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the “Government in Sunshine Act,” 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

Relate solely to the Interstate Commission’s internal personnel practices and procedures.

Disclose matters specifically exempted from disclosure by statute.

Disclose trade secrets or commercial or financial information which is privileged or confidential.

Involve accusing any person of a crime, or formally censuring any person.

Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Disclose investigatory records compiled for law enforcement purposes.

Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of ~~such~~ the entity.

Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

Specifically relate to the Interstate Commission’s issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission’s chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflected

1 in the vote of each Member on the question). All documents
2 considered in connection with any action shall be identified in
3 ~~such~~ *the* minutes. The Interstate Commission shall collect
4 standardized data concerning the interstate movement of offenders
5 as directed through its By-laws and Rules which shall specify the
6 data to be collected, the means of collection and data exchange and
7 reporting requirements.

8
9 Article VIII. Rulemaking Functions of the Interstate
10 Commission
11

12 The Interstate Commission shall promulgate Rules in order to
13 effectively and efficiently achieve the purposes of the Compact
14 including transition rules governing administration of the compact
15 during the period in which it is being considered and enacted by
16 the states.

17 Rulemaking shall occur pursuant to the criteria set forth in this
18 Article and the By-laws and Rules adopted pursuant thereto. ~~Such~~
19 ~~rulemaking~~ *Rulemaking* shall substantially conform to the
20 principles of the federal Administrative Procedure Act, 5 U.S.C.S.
21 section 551 et seq., and the Federal Advisory Committee Act, 5
22 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter
23 “APA”). All Rules and amendments shall become binding as of
24 the date specified in each Rule or amendment.

25 If a majority of the legislatures of the Compacting States rejects
26 a Rule, by enactment of a statute or resolution in the same manner
27 used to adopt the compact, then ~~such~~ *the* Rule shall have no further
28 force and effect in any Compacting State.

29 When promulgating a Rule, the Interstate Commission shall:
30 Publish the proposed Rule stating with particularity the text of
31 the Rule which is proposed and the reason for the proposed Rule.
32 Allow persons to submit written data, facts, opinions and
33 arguments, which information shall be publicly available.

34 Provide an opportunity for an informal hearing.

35 Promulgate a final Rule and its effective date, if appropriate,
36 based on the rulemaking record.

37 Not later than sixty days after a Rule is promulgated, any
38 interested person may file a petition in the United States District
39 Court for the District of Columbia or in the Federal District Court
40 where the Interstate Commission’s principal office is located for

1 judicial review of ~~such~~ the Rule. If the court finds that the
2 Interstate Commission's action is not supported by substantial
3 evidence, (as defined in the APA), in the rulemaking record, the
4 court shall hold the Rule unlawful and set it aside. Subjects to be
5 addressed within 12 months after the first meeting must at a
6 minimum include:

7 Notice to victims and opportunity to be heard.

8 Offender registration and compliance.

9 Violations/returns.

10 Transfer procedures and forms.

11 Eligibility for transfer.

12 Collection of restitution and fees from offenders.

13 Data collection and reporting.

14 The level of supervision to be provided by the receiving state.

15 Transition rules governing the operation of the compact and the
16 Interstate Commission during all or part of the period between the
17 effective date of the compact and the date on which the last eligible
18 state adopts the compact.

19 Mediation, arbitration and dispute resolution.

20 The existing rules governing the operation of the previous
21 compact superceded by this Act shall be null and void twelve (12)
22 months after the first meeting of the Interstate Commission created
23 hereunder.

24 Upon determination by the Interstate Commission that an
25 emergency exists, it may promulgate an emergency rule which
26 shall become effective immediately upon adoption, provided that
27 the usual rulemaking procedures provided hereunder shall be
28 retroactively applied to said rule as soon as reasonably possible, in
29 no event later than 90 days after the effective date of the rule.

30
31 Article IX. Oversight, Enforcement, and Dispute Resolution
32 by the Interstate Commission
33

34 Section A. Oversight

35 The Interstate Commission shall oversee the interstate
36 movement of adult offenders in the compacting states and shall
37 monitor ~~such~~ the activities being administered in Non-compacting
38 States which may significantly affect Compacting States.

39 The courts and executive agencies in each Compacting State
40 shall enforce this Compact and shall take all actions necessary and

1 appropriate to effectuate the Compact's purposes and intent. In any
2 judicial or administrative proceeding in a Compacting State
3 pertaining to the subject matter of this Compact which may affect
4 the powers, responsibilities or actions of the Interstate
5 Commission, the Interstate Commission shall be entitled to
6 receive all service of process in any ~~such~~ proceeding, and shall
7 have standing to intervene in the proceeding for all purposes.

8 Section B. Dispute Resolution

9 The Compacting States shall report to the Interstate
10 Commission on issues or activities of concern to them, and
11 cooperate with and support the Interstate Commission in the
12 discharge of its duties and responsibilities.

13 The Interstate Commission shall attempt to resolve any disputes
14 or other issues which are subject to the Compact and which may
15 arise among Compacting States and Non-compacting States.

16 The Interstate Commission shall enact a By-law or promulgate
17 a Rule providing for both mediation and binding dispute resolution
18 for disputes among the Compacting States.

19 Section C. Enforcement

20 The Interstate Commission, in the reasonable exercise of its
21 discretion, shall enforce the provisions of this compact using any
22 or all means set forth in Article XII, Section B, of this compact.

23
24 Article X. Finance

25
26 The Interstate Commission shall pay or provide for the payment
27 of the reasonable expenses of its establishment, organization and
28 ongoing activities.

29 The Interstate Commission shall levy on and collect an annual
30 assessment from each Compacting State to cover the cost of the
31 internal operations and activities of the Interstate Commission and
32 its staff which must be in a total amount sufficient to cover the
33 Interstate Commission's annual budget as approved each year. The
34 aggregate annual assessment amount shall be allocated based upon
35 a formula to be determined by the Interstate Commission, taking
36 into consideration the population of the state and the volume of
37 interstate movement of offenders in each Compacting State and
38 shall promulgate a Rule binding upon all Compacting States which
39 governs said assessment.

1 The Interstate Commission shall not incur any obligations of
2 any kind prior to securing the funds adequate to meet the same; nor
3 shall the Interstate Commission pledge the credit of any of the
4 compacting states, except by and with the authority of the
5 compacting state. The Interstate Commission shall keep accurate
6 accounts of all receipts and disbursements. The receipts and
7 disbursements of the Interstate Commission shall be subject to the
8 audit and accounting procedures established under its By-laws.
9 However, all receipts and disbursements of funds handled by the
10 Interstate Commission shall be audited yearly by a certified or
11 licensed public accountant and the report of the audit shall be
12 included in and become part of the annual report of the Interstate
13 Commission.

14
15 Article XI. Compacting States, Effective Date and
16 Amendment
17

18 Any state, as defined in Article II of this compact, is eligible to
19 become a Compacting State. The Compact shall become effective
20 and binding upon legislative enactment of the Compact into law
21 by no less than 35 of the States. The initial effective date shall be
22 the later of July 1, 2001, or upon enactment into law by the 35th
23 jurisdiction. Thereafter, it shall become effective and binding, as
24 to any other Compacting State, upon enactment of the Compact
25 into law by that State. The governors of Non-member states or
26 their designees will be invited to participate in Interstate
27 Commission activities on a non-voting basis prior to adoption of
28 the compact by all states and territories of the United States.

29 Amendments to the Compact may be proposed by the Interstate
30 Commission for enactment by the Compacting States. No
31 amendment shall become effective and binding upon the Interstate
32 Commission and the Compacting States unless and until it is
33 enacted into law by unanimous consent of the Compacting States.

34
35 Article XII. Withdrawal, Default, Termination, and Judicial
36 Enforcement
37

38 Section A. Withdrawal

39 Once effective, the Compact shall continue in force and remain
40 binding upon each and every Compacting State; provided, that a

1 Compacting State may withdraw from the Compact
2 (“Withdrawing State”) by enacting a statute specifically repealing
3 the statute which enacted the Compact into law.

4 The effective date of withdrawal is the effective date of the
5 repeal. The Withdrawing State shall immediately notify the
6 Chairperson of the Interstate Commission in writing upon the
7 introduction of legislation repealing this Compact in the
8 Withdrawing State. The Interstate Commission shall notify the
9 other Compacting States of the Withdrawing State’s intent to
10 withdraw within sixty days of its receipt thereof. The Withdrawing
11 State is responsible for all assessments, obligations and liabilities
12 incurred through the effective date of withdrawal, including any
13 obligations, the performance of which extend beyond the effective
14 date of withdrawal.

15 Reinstatement following withdrawal of any Compacting State
16 shall occur upon the Withdrawing State reenacting the Compact or
17 upon ~~such~~ a later date as determined by the Interstate Commission.

18 Section B. Default

19 If the Interstate Commission determines that any Compacting
20 State has at any time defaulted (“Defaulting State”) in the
21 performance of any of its obligations or responsibilities under this
22 Compact, the By-laws or any duly promulgated Rules the
23 Interstate Commission may impose any or all of the following
24 penalties: Fines, fees and costs in ~~such~~ amounts as are deemed to
25 be reasonable as fixed by the Interstate Commission. Remedial
26 training and technical assistance as directed by the Interstate
27 Commission; suspension and termination of membership in the
28 compact. Suspension shall be imposed only after all other
29 reasonable means of securing compliance under the By-laws and
30 Rules have been exhausted. Immediate notice of suspension shall
31 be given by the Interstate Commission to the Governor, the Chief
32 Justice or Chief Judicial Officer of the state, the majority and
33 minority leaders of the defaulting state’s legislature, and the State
34 Council.

35 The grounds for default include, but are not limited to, failure
36 of a Compacting State to perform ~~such~~ the obligations or
37 responsibilities imposed upon it by this compact, Interstate
38 Commission By-laws, or duly promulgated Rules. The Interstate
39 Commission shall immediately notify the Defaulting State in
40 writing of the penalty imposed by the Interstate Commission on

1 the Defaulting State pending a cure of the default. The Interstate
2 Commission shall stipulate the conditions and the time period
3 within which the Defaulting State must cure its default. If the
4 Defaulting State fails to cure the default within the time period
5 specified by the Interstate Commission, in addition to any other
6 penalties imposed herein, the Defaulting State may be terminated
7 from the Compact upon an affirmative vote of a majority of the
8 Compacting States and all rights, privileges and benefits conferred
9 by this Compact shall be terminated from the effective date of
10 suspension. Within sixty days of the effective date of termination
11 of a Defaulting State, the Interstate Commission shall notify the
12 Governor, the Chief Justice or Chief Judicial Officer and the
13 Majority and Minority Leaders of the Defaulting State's
14 legislature and the state council of ~~such~~ the termination.

15 The Defaulting State is responsible for all assessments,
16 obligations and liabilities incurred through the effective date of
17 termination including any obligations, the performance of which
18 extends beyond the effective date of termination.

19 The Interstate Commission shall not bear any costs relating to
20 the Defaulting State unless otherwise mutually agreed upon
21 between the Interstate Commission and the Defaulting State.
22 Reinstatement following termination of any Compacting State
23 requires both a reenactment of the Compact by the Defaulting
24 State and the approval of the Interstate Commission pursuant to the
25 Rules.

26 Section C. Judicial Enforcement

27 The Interstate Commission may, by majority vote of the
28 Members, initiate legal action in the United States District Court
29 for the District of Columbia or, at the discretion of the Interstate
30 Commission, in the Federal District where the Interstate
31 Commission has its offices to enforce compliance with the
32 provisions of the Compact, its duly promulgated Rules and
33 By-laws, against any Compacting State in default. In the event
34 judicial enforcement is necessary the prevailing party shall be
35 awarded all *litigation* costs of ~~such~~ litigation including reasonable
36 attorneys fees.

37 Section D. Dissolution of Compact

38 The Compact dissolves effective upon the date of the
39 withdrawal or default of the Compacting State which reduces
40 membership in the Compact to one Compacting State.

1 Upon the dissolution of this Compact, the Compact becomes
2 null and void and shall be of no further force or effect, and the
3 business and affairs of the Interstate Commission shall be wound
4 up and any surplus funds shall be distributed in accordance with
5 the By-laws.

6
7 Article XIII. Severability and Construction
8

9 The provisions of this Compact shall be severable, and if any
10 phrase, clause, sentence or provision is deemed unenforceable, the
11 remaining provisions of the Compact shall be enforceable.

12 The provisions of this Compact shall be liberally constructed to
13 effectuate its purposes.

14
15 Article XIV. Binding Effect of Compact and Other Laws
16

17 Section A. Other Laws

18 Nothing herein prevents the enforcement of any other law of a
19 Compacting State that is not inconsistent with this Compact.

20 All Compacting States' laws conflicting with this Compact are
21 superseded to the extent of the conflict.

22 Section B. Binding Effect of the Compact

23 All lawful actions of the Interstate Commission, including all
24 Rules and By-laws promulgated by the Interstate Commission, are
25 binding upon the Compacting States.

26 All agreements between the Interstate Commission and the
27 Compacting States are binding in accordance with their terms.

28 Upon the request of a party to a conflict over meaning or
29 interpretation of Interstate Commission actions, and upon a
30 majority vote of the Compacting States, the Interstate Commission
31 may issue advisory opinions regarding—~~such~~ meaning or
32 interpretation.

33 In the event any provision of this Compact exceeds the
34 constitutional limits imposed on the legislature of any Compacting
35 State, the obligations, duties, powers or jurisdiction sought to be
36 conferred by—~~such~~ the provision upon the Interstate Commission
37 shall be ineffective and—~~such~~ the obligations, duties, powers or
38 jurisdiction shall remain in the Compacting State and shall be
39 exercised by the agency thereof to which—~~such~~ the obligations,
40 duties, powers or jurisdiction are delegated by law in effect at the

1 time this Compact becomes effective.

2
3 ~~SEC. 61.~~

4 *SEC. 60.* Section 11418 of the Penal Code is amended to read:

5 11418. (a) (1) Any person, without lawful authority, who
6 possesses, develops, manufactures, produces, transfers, acquires,
7 or retains any weapon of mass destruction, shall be punished by
8 imprisonment in the state prison for 3, 6, or 9 years.

9 (2) Any person who commits a violation of paragraph (1) and
10 who has been previously convicted of Section 11411, 11412,
11 11413, 11460, 12303.1, 12303.2, or 12303.3 shall be punished by
12 imprisonment in the state prison for 4, 8, or 12 years.

13 (b) (1) Any person who uses or directly employs against
14 another person a weapon of mass destruction in a form that may
15 cause widespread, disabling illness, or injury in human beings
16 shall be punished by imprisonment in the state prison for life.

17 (2) Any person who uses a weapon of mass destruction in a
18 form that may cause widespread damage to and disruption of the
19 water or food supply shall be punished by imprisonment in the
20 state prison for 4, 8, or 12 years, and by a fine of not more than one
21 hundred thousand dollars (\$100,000).

22 (3) Any person who maliciously uses against animals or crops
23 a weapon of mass destruction in a form that may cause widespread
24 damage to and substantial diminution in the value of stock animals
25 or crops shall be punished by a fine of not more than one hundred
26 thousand dollars (\$100,000), or by imprisonment in the state
27 prison for 4, 8, or 12 years, or by both that fine and imprisonment.

28 (c) Any person who uses a weapon of mass destruction in a
29 form that may cause widespread and significant damage to public
30 natural resources, including coastal waterways and beaches,
31 public parkland, surface waters, ground water, and wildlife, shall
32 be punished by imprisonment in the state prison for 3, 4, or 6 years.

33 (d) Any person who uses recombinant technology or any other
34 biological advance to create new pathogens or more virulent forms
35 of existing pathogens for the purposes specified in this section,
36 shall be punished by imprisonment in a county jail for up to one
37 year or in the state prison for 3, 6, or 9 years, or by a fine of not
38 more than two hundred fifty thousand dollars (\$250,000), or by
39 both that fine and imprisonment.

(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

~~SEC. 62. Section 12021 of the Penal Code is amended to read:~~

~~12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.~~

~~(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.~~

~~(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.~~

~~(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that~~

1 ~~imprisonment and fine. The court, on forms prescribed by the~~
2 ~~Department of Justice, shall notify the department of persons~~
3 ~~subject to this subdivision. However, the prohibition in this~~
4 ~~paragraph may be reduced, eliminated, or conditioned as provided~~
5 ~~in paragraph (2) or (3).~~

6 ~~(2) Any person employed as a peace officer described in~~
7 ~~Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose~~
8 ~~employment or livelihood is dependent on the ability to legally~~
9 ~~possess a firearm, who is subject to the prohibition imposed by this~~
10 ~~subdivision because of a conviction under Section 273.5, 273.6, or~~
11 ~~646.9, may petition the court only once for relief from this~~
12 ~~prohibition. The petition shall be filed with the court in which the~~
13 ~~petitioner was sentenced. If possible, the matter shall be heard~~
14 ~~before the same judge that sentenced the petitioner. Upon filing the~~
15 ~~petition, the clerk of the court shall set the hearing date and shall~~
16 ~~notify the petitioner and the prosecuting attorney of the date of the~~
17 ~~hearing. Upon making each of the following findings, the court~~
18 ~~may reduce or eliminate the prohibition, impose conditions on~~
19 ~~reduction or elimination of the prohibition, or otherwise grant~~
20 ~~relief from the prohibition as the court deems appropriate:~~

21 ~~(A) Finds by a preponderance of the evidence that the~~
22 ~~petitioner is likely to use a firearm in a safe and lawful manner.~~

23 ~~(B) Finds that the petitioner is not within a prohibited class as~~
24 ~~specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,~~
25 ~~and the court is not presented with any credible evidence that the~~
26 ~~petitioner is a person described in Section 8100 or 8103 of the~~
27 ~~Welfare and Institutions Code.~~

28 ~~(C) Finds that the petitioner does not have a previous~~
29 ~~conviction under this subdivision no matter when the prior~~
30 ~~conviction occurred.~~

31 ~~In making its decision, the court shall consider the petitioner's~~
32 ~~continued employment, the interest of justice, any relevant~~
33 ~~evidence, and the totality of the circumstances. The court shall~~
34 ~~require, as a condition of granting relief from the prohibition under~~
35 ~~this section, that the petitioner agree to participate in counseling~~
36 ~~as deemed appropriate by the court. Relief from the prohibition~~
37 ~~shall not relieve any other person or entity from any liability that~~
38 ~~might otherwise be imposed. It is the intent of the Legislature that~~
39 ~~courts exercise broad discretion in fashioning appropriate relief~~
40 ~~under this paragraph in cases in which relief is warranted.~~

1 However, nothing in this paragraph shall be construed to require
2 courts to grant relief to any particular petitioner. It is the intent of
3 the Legislature to permit persons who were convicted of an offense
4 specified in Section 273.5, 273.6, or 646.9 to seek relief from the
5 prohibition imposed by this subdivision.

6 (3) Any person who is subject to the prohibition imposed by
7 this subdivision because of a conviction of an offense prior to that
8 offense being added to paragraph (1), may petition the court only
9 once for relief from this prohibition. The petition shall be filed
10 with the court in which the petitioner was sentenced. If possible,
11 the matter shall be heard before the same judge that sentenced the
12 petitioner. Upon filing the petition, the clerk of the court shall set
13 the hearing date and notify the petitioner and the prosecuting
14 attorney of the date of the hearing. Upon making each of the
15 following findings, the court may reduce or eliminate the
16 prohibition, impose conditions on reduction or elimination of the
17 prohibition, or otherwise grant relief from the prohibition as the
18 court deems appropriate:

19 (A) Finds by a preponderance of the evidence that the
20 petitioner is likely to use a firearm in a safe and lawful manner.

21 (B) Finds that the petitioner is not within a prohibited class as
22 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
23 and the court is not presented with any credible evidence that the
24 petitioner is a person described in Section 8100 or 8103 of the
25 Welfare and Institutions Code.

26 (C) Finds that the petitioner does not have a previous
27 conviction under this subdivision, no matter when the prior
28 conviction occurred.

29 In making its decision, the court may consider the interest of
30 justice, any relevant evidence, and the totality of the
31 circumstances. It is the intent of the Legislature that courts exercise
32 broad discretion in fashioning appropriate relief under this
33 paragraph in cases in which relief is warranted. However, nothing
34 in this paragraph shall be construed to require courts to grant relief
35 to any particular petitioner.

36 (4) Law enforcement officials who enforce the prohibition
37 specified in this subdivision against a person who has been granted
38 relief pursuant to paragraph (2) or (3), shall be immune from any
39 liability for false arrest arising from the enforcement of this
40 subdivision unless the person has in his or her possession a

1 certified copy of the court order that granted the person relief from
2 the prohibition. This immunity from liability shall not relieve any
3 person or entity from any other liability that might otherwise be
4 imposed.

5 (d) Any person who, as an express condition of probation, is
6 prohibited or restricted from owning, possessing, controlling,
7 receiving, or purchasing a firearm and who owns, or has in his or
8 her possession or under his or her custody or control, any firearm
9 but who is not subject to subdivision (a) or (c) is guilty of a public
10 offense, which shall be punishable by imprisonment in a county
11 jail not exceeding one year or in the state prison, by a fine not
12 exceeding one thousand dollars (\$1,000), or by both that
13 imprisonment and fine. The court, on forms provided by the
14 Department of Justice, shall notify the department of persons
15 subject to this subdivision. The notice shall include a copy of the
16 order of probation and a copy of any minute order or abstract
17 reflecting the order and conditions of probation.

18 (e) Any person who (1) is alleged to have committed an offense
19 listed in subdivision (b) of Section 707 of the Welfare and
20 Institutions Code, an offense described in subdivision (b) of
21 Section 1203.073, or any offense enumerated in paragraph (1) of
22 subdivision (c), and (2) is subsequently adjudged a ward of the
23 juvenile court within the meaning of Section 602 of the Welfare
24 and Institutions Code because the person committed an offense
25 listed in subdivision (b) of Section 707 of the Welfare and
26 Institutions Code, an offense described in subdivision (b) of
27 Section 1203.073, or any offense enumerated in paragraph (1) of
28 subdivision (c) shall not own, or have in his or her possession or
29 under his or her custody or control, any firearm until the age of 30
30 years. A violation of this subdivision shall be punishable by
31 imprisonment in a county jail not exceeding one year or in the state
32 prison, by a fine not exceeding one thousand dollars (\$1,000), or
33 by both that imprisonment and fine. The juvenile court, on forms
34 prescribed by the Department of Justice, shall notify the
35 department of persons subject to this subdivision.
36 Notwithstanding any other law, the forms required to be submitted
37 to the department pursuant to this subdivision may be used to
38 determine eligibility to acquire a firearm.

1 ~~(f) Subdivision (a) shall not apply to a person who has been~~
2 ~~convicted of a felony under the laws of the United States unless~~
3 ~~either of the following criteria is satisfied:~~

4 ~~(1) Conviction of a like offense under California law can only~~
5 ~~result in imposition of felony punishment.~~

6 ~~(2) The defendant was sentenced to a federal correctional~~
7 ~~facility for more than 30 days, or received a fine of more than one~~
8 ~~thousand dollars (\$1,000), or received both punishments.~~

9 ~~(g) (1) Every person who purchases or receives, or attempts to~~
10 ~~purchase or receive, a firearm knowing that he or she is subject to~~
11 ~~a protective order as defined in Section 6218 of the Family Code,~~
12 ~~Section 136.2, or a temporary restraining order or injunction~~
13 ~~issued pursuant to Section 527.6 or 527.8 of the Code of Civil~~
14 ~~Procedure, is guilty of a public offense, which shall be punishable~~
15 ~~by imprisonment in a county jail not exceeding one year or in the~~
16 ~~state prison, by a fine not exceeding one thousand dollars (\$1,000),~~
17 ~~or by both that imprisonment and fine. This subdivision does not~~
18 ~~apply unless the copy of the restraining order personally served on~~
19 ~~the person against whom the restraining order is issued contains a~~
20 ~~notice in bold print stating that the person is prohibited from~~
21 ~~purchasing or receiving or attempting to purchase or receive a~~
22 ~~firearm and specifying the penalties for violating this subdivision,~~
23 ~~or a court has provided actual verbal notice of the firearm~~
24 ~~prohibition and penalty as provided in Section 6304 of the Family~~
25 ~~Code.~~

26 ~~(2) Every person who owns or possesses, or attempts to own or~~
27 ~~possess, a firearm knowing that he or she is prohibited from~~
28 ~~owning or possessing or attempting to own or possess a firearm by~~
29 ~~the provisions of a protective order as defined in Section 6218 of~~
30 ~~the Family Code, Section 136.2 of the Penal Code, or a temporary~~
31 ~~restraining order or injunction issued pursuant to Section 527.6 or~~
32 ~~527.8 of the Code of Civil Procedure, is guilty of a public offense,~~
33 ~~which shall be punishable by imprisonment in a county jail not~~
34 ~~exceeding one year, by a fine not exceeding one thousand dollars~~
35 ~~(\$1,000), or by both that imprisonment and fine. This subdivision~~
36 ~~does not apply unless a copy of the restraining order personally~~
37 ~~served on the person against whom the restraining order is issued~~
38 ~~contains a notice in bold print stating that the person is prohibited~~
39 ~~from owning or possessing or attempting to own or possess a~~
40 ~~firearm and specifying the penalties for violating this subdivision,~~

~~or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.~~

~~(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.~~

~~(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.~~

~~(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:~~

~~(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.~~

~~(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.~~

~~(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.~~

~~(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.~~

~~(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.~~

~~(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.~~

~~SEC. 63.—~~

~~SEC. 61. Section 12022.53 of the Penal Code is amended to read:~~

~~12022.53. (a) This section applies to the following felonies:~~

- 1 (1) Section 187 (murder).
- 2 (2) Section 203 or 205 (mayhem).
- 3 (3) Section 207, 209, or 209.5 (kidnapping).
- 4 (4) Section 211 (robbery).
- 5 (5) Section 215 (carjacking).
- 6 (6) Section 220 (assault with intent to commit a specified
- 7 felony).
- 8 (7) Subdivision (d) of Section 245 (assault with a firearm on a
- 9 peace officer or firefighter).
- 10 (8) Section 261 or 262 (rape).
- 11 (9) Section 264.1 (rape or sexual penetration in concert).
- 12 (10) Section 286 (sodomy).
- 13 (11) Section 288 or 288.5 (lewd act on a child).
- 14 (12) Section 288a (oral copulation).
- 15 (13) Section 289 (sexual penetration).
- 16 (14) Section 4500 (assault by a life prisoner).
- 17 (15) Section 4501 (assault by a prisoner).
- 18 (16) Section 4503 (holding a hostage by a prisoner).
- 19 (17) Any felony punishable by death or imprisonment in the
- 20 state prison for life.
- 21 (18) Any attempt to commit a crime listed in this subdivision
- 22 other than an assault.
- 23 (b) Notwithstanding any other provision of law, any person
- 24 who is convicted of a felony specified in subdivision (a), and who
- 25 in the commission of that felony personally used a firearm, shall
- 26 be punished by a term of imprisonment of 10 years in the state
- 27 prison, which shall be imposed in addition and consecutive to the
- 28 punishment prescribed for that felony. The firearm need not be
- 29 operable or loaded for this enhancement to apply.
- 30 (c) Notwithstanding any other provision of law, any person
- 31 who is convicted of a felony specified in subdivision (a), and who
- 32 in the commission of that felony intentionally and personally
- 33 discharged a firearm, shall be punished by a term of imprisonment
- 34 of 20 years in the state prison, which shall be imposed in addition
- 35 and consecutive to the punishment prescribed for that felony.
- 36 (d) Notwithstanding any other provision of law, any person
- 37 who is convicted of a felony specified in subdivision (a), Section
- 38 246, or subdivision (c) or (d) of Section 12034, and who in the
- 39 commission of that felony intentionally and personally discharged
- 40 a firearm and proximately caused great bodily injury, as defined

1 in Section 12022.7, or death, to any person other than an
2 accomplice, shall be punished by a term of imprisonment of 25
3 years to life in the state prison, which shall be imposed in addition
4 and consecutive to the punishment prescribed for that felony.

5 (e) (1) The enhancements specified in this section shall apply
6 to any person charged as a principal in the commission of an
7 offense that includes an allegation pursuant to this section when a
8 violation of both this section and subdivision (b) of Section 186.22
9 are pled and proved.

10 (2) An enhancement for participation in a criminal street gang
11 pursuant to Chapter 11 (commencing with Section 186.20) of Title
12 7 of Part 1 shall not be imposed on a person in addition to an
13 enhancement imposed pursuant to this subdivision, unless the
14 person personally used or personally discharged a firearm in the
15 commission of the offense.

16 (f) Only one additional term of imprisonment under this
17 section shall be imposed per person for each crime. If more than
18 one enhancement per person is found true under this section, the
19 court shall impose upon that person the enhancement that provides
20 the longest term of imprisonment. An enhancement involving a
21 firearm specified in Section 12021.5, 12022, 12022.3, 12022.4,
22 12022.5, or 12022.55 shall not be imposed on a person in addition
23 to an enhancement imposed pursuant to this section. An
24 enhancement for great bodily injury as defined in Section 12022.7,
25 12022.8, or 12022.9 shall not be imposed on a person in addition
26 to an enhancement imposed pursuant to subdivision (d).

27 (g) Notwithstanding any other provision of law, probation shall
28 not be granted to, nor shall the execution or imposition of sentence
29 be suspended for, any person found to come within the provisions
30 of this section.

31 (h) Notwithstanding Section 1385 or any other provision of
32 law, the court shall not strike an allegation under this section or a
33 finding bringing a person within the provisions of this section.

34 (i) The total amount of credits awarded pursuant to Article 2.5
35 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3
36 or pursuant to Section 4019 or any other provision of law shall not
37 exceed 15 percent of the total term of imprisonment imposed on
38 a defendant upon whom a sentence is imposed pursuant to this
39 section.



(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

~~SEC. 64.~~

SEC. 62. Section 12094 of the Penal Code is amended to read:
12094. (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

(b) Subdivision (a) does not apply to any of the following:

(1) The acquisition or possession of a firearm described in subdivision (a) by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of his or her employment.

(2) The acquisition or possession of a firearm described in subdivision (a) by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of his or her employment.

(3) The acquisition or possession of a firearm described in subdivision (a) by any employee of a forensic laboratory, while on duty and acting within the scope and course of his or her employment.

(4) The possession and disposition of a firearm described in subdivision (a) by a person who meets all of the following:

(A) He or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency in order to deliver the firearm to the law enforcement agency for the agency's disposition according to law.

(D) If the person is transporting the firearm to a law enforcement agency, he or she has given prior notice to the law enforcement agency that he or she is transporting the firearm to that law enforcement agency for that agency's disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

~~SEC. 65.~~

SEC. 63. Section 12288 of the Penal Code is amended to read: 12288. Any individual may arrange in advance to relinquish an assault weapon to a police or sheriff's department. The assault weapon shall be transported in accordance with Section 12026.1.

~~SEC. 66.~~

SEC. 64. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) On or before August 1, 1993, the commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative

1 methods of carrying out law enforcement duties in a racially and
2 culturally diverse environment.

3 (b) The course of basic training for law enforcement officers
4 shall, no later than August 1, 1993, include adequate instruction on
5 racial and cultural diversity in order to foster mutual respect and
6 cooperation between law enforcement and members of all racial
7 and cultural groups. In developing the training, the commission
8 shall consult with appropriate groups and individuals having an
9 interest and expertise in the field of cultural awareness and
10 diversity.

11 (c) For the purposes of this section, “culturally diverse” and
12 “cultural diversity” include, but are not limited to, gender and
13 sexual orientation issues. The Legislature finds and declares as
14 follows:

15 (1) Racial profiling is a practice that presents a great danger to
16 the fundamental principles of a democratic society. It is abhorrent
17 and cannot be tolerated.

18 (2) Motorists who have been stopped by the police for no
19 reason other than the color of their skin or their apparent
20 nationality or ethnicity are the victims of discriminatory practices.

21 (3) It is the intent of the Legislature in enacting the changes to
22 Section 13519.4 of the Penal Code made by the act that added this
23 subdivision that more than additional training is required to
24 address the pernicious practice of racial profiling and that
25 enactment of this bill is in no way dispositive of the issue of how
26 the state should deal with racial profiling.

27 (4) The working men and women in California law
28 enforcement risk their lives every day. The people of California
29 greatly appreciate the hard work and dedication of law
30 enforcement officers in protecting public safety. The good name
31 of these officers should not be tarnished by the actions of those few
32 who commit discriminatory practices.

33 (d) “Racial profiling,” for purposes of this section, is the
34 practice of detaining a suspect based on a broad set of criteria
35 which casts suspicion on an entire class of people without any
36 individualized suspicion of the particular person being stopped.

37 (e) A law enforcement officer shall not engage in racial
38 profiling.

39 (f) Every law enforcement officer in this state shall participate
40 in expanded training as prescribed and certified by the

1 Commission on Peace Officers Standards and Training. Training
2 shall begin being offered no later than January 1, 2002. The
3 curriculum shall be created by the commission in collaboration
4 with a five-person panel, appointed no later than March 1, 2001,
5 as follows: the Governor shall appoint three members and one
6 member each shall be appointed by the Senate Committee on Rules
7 and the Speaker of the Assembly. Each appointee shall be
8 appointed from among prominent members of the following
9 organizations:

10 (1) State Conference of the NAACP.

11 (2) Brotherhood Crusade.

12 (3) Mexican American Legal Defense and Education Fund.

13 (4) The League of United Latin American Citizens.

14 (5) American Civil Liberties Union.

15 (6) Anti-Defamation League.

16 (7) California NOW.

17 (8) Asian Pacific Bar of California.

18 (9) The Urban League.

19 (g) Members of the panel shall not be compensated, except for
20 reasonable per diem expenses related to their work for panel
21 purposes.

22 (h) The curriculum shall utilize the Tools for Tolerance for Law
23 Enforcement Professionals framework and shall include and
24 examine the patterns, practices, and protocols that make up racial
25 profiling. This training shall prescribe patterns, practices, and
26 protocols that prevent racial profiling. In developing the training,
27 the commission shall consult with appropriate groups and
28 individuals having an interest and expertise in the field of racial
29 profiling. The course of instruction shall include, but not be
30 limited to, adequate consideration of each of the following
31 subjects:

32 (1) Identification of key indices and perspectives that make up
33 cultural differences among residents in a local community.

34 (2) Negative impact of biases, prejudices, and stereotyping on
35 effective law enforcement, including examination of how
36 historical perceptions of discriminatory enforcement practices
37 have harmed police-community relations.

38 (3) The history and the role of the civil rights movement and
39 struggles and their impact on law enforcement.

1 (4) Specific obligations of officers in preventing, reporting,
2 and responding to discriminatory or biased practices by fellow
3 officers.

4 (5) Perspectives of diverse, local constituency groups and
5 experts on particular cultural and police-community relations
6 issues in a local area.

7 (i) Once the initial basic training is completed, each law
8 enforcement officer in California as described in subdivision (a)
9 of Section 13510 who adheres to the standards approved by the
10 commission shall be required to complete a refresher course every
11 five years thereafter, or on a more frequent basis if deemed
12 necessary, in order to keep current with changing racial and
13 cultural trends.

14 (j) The Legislative Analyst shall conduct a study of the data
15 being voluntarily collected by those jurisdictions that have
16 instituted a program of data collection with regard to racial
17 profiling, including, but not limited to, the California Highway
18 Patrol, the City of San Jose, and the City of San Diego, both to
19 ascertain the incidence of racial profiling and whether data
20 collection serves to address and prevent such practices, as well as
21 to assess the value and efficacy of the training herein prescribed
22 with respect to preventing local profiling. The Legislative Analyst
23 may prescribe the manner in which the data is to be submitted and
24 may request that police agencies collecting such data submit it in
25 the requested manner. The Legislative Analyst shall provide to the
26 Legislature a report and recommendations with regard to racial
27 profiling by July 1, 2002.

28 ~~SEC. 67.~~

29 *SEC. 65.* The heading of Title 10.5 (commencing with
30 Section 14150) of Part 4 of the Penal Code is amended and
31 renumbered to read:

32
33 TITLE 10.6. COMMUNITY CONFLICT RESOLUTION
34 PROGRAMS
35

36 ~~SEC. 68.~~

37 *SEC. 66.* Section 19705 of the Revenue and Taxation Code is
38 amended to read:

39 19705. (a) Any person who does any of the following shall
40 be guilty of a felony and, upon conviction, shall be fined not more

1 than fifty thousand dollars (\$50,000) or imprisoned in the state
2 prison, or both, together with the costs of investigation and
3 prosecution:

4 (1) Willfully makes and subscribes any return, statement, or
5 other document, that contains or is verified by a written declaration
6 that it is made under penalty of perjury, and he or she does not
7 believe to be true and correct as to every material matter.

8 (2) Willfully aids or assists in, or procures, counsels, or advises
9 the preparation or presentation under, or in connection with any
10 matter arising under, the Personal Income Tax Law or the Bank
11 and Corporation Tax Law, of a return, affidavit, claim, or other
12 document, that is fraudulent or is false as to any material matter,
13 whether or not that falsity or fraud is with the knowledge or
14 consent of the person authorized or required to present that return,
15 affidavit, claim, or document.

16 (3) Simulates or falsely or fraudulently executes or signs any
17 bond, permit, entry, or other document required by the provisions
18 of the Personal Income Tax Law or the Bank and Corporation Tax
19 Law, or by any regulation pursuant to that law, or procures the
20 same to be falsely or fraudulently executed or advises, aids in, or
21 connives at that execution.

22 (4) Removes, deposits, or conceals, or is concerned in
23 removing, depositing, or concealing, any goods or commodities
24 for or in respect whereof any tax is or shall be imposed, or any
25 property upon which levy is authorized by Chapter 5
26 (commencing with Section 19201); or Chapter 8 (commencing
27 with Section 688.010) of Division 1 of, and Chapter 5
28 (commencing with Section 706.010) of Division 2 of, Title 9 of the
29 Code of Civil Procedure, with intent to evade or defeat the
30 assessment or collection of any tax, additions to tax, penalty, or
31 interest imposed by Part 10 (commencing with Section 17001),
32 Part 11 (commencing with Section 23001), or this part.

33 (5) In connection with any settlement under Section 19442, or
34 offer of that settlement, or in connection with any closing
35 agreement under Section 19441 or offer to enter into that
36 agreement, or compromise under Section 19443, or offer of that
37 compromise, willfully does any of the following:

38 (A) Conceals from any officer or employee of this state any
39 property belonging to the estate of a taxpayer or other person liable
40 in respect of the tax.



1 (B) Receives, withholds, destroys, mutilates, or falsifies any
2 book, document, or record, or makes any false statement, relating
3 to the estate or financial condition of the taxpayer or other person
4 liable in respect of the tax.

5 (b) In the case of a corporation, the fifty thousand dollars
6 (\$50,000) limitation specified in subdivision (a) shall be increased
7 to two hundred thousand dollars (\$200,000).

8 (c) The fact that an individual's name is signed to a return,
9 statement, or other document filed, including a return, statement,
10 or other document filed using electronic technology pursuant to
11 Section 18621.5, shall be prima facie evidence for all purposes that
12 the return, statement, or other document was actually signed by
13 him or her.

14 (d) For purposes of this section, "person" means the taxpayer,
15 any member of the taxpayer's family, any corporation, agent,
16 fiduciary, or representative of, or any other individual or entity
17 acting on behalf of, the taxpayer, or any other corporation or entity
18 owned or controlled by the taxpayer, directly or indirectly, or
19 which owns or controls the taxpayer, directly or indirectly.

20 (e) The changes made to this section by the act adding this
21 subdivision apply to offers made on or after January 1, 1999.

22 ~~SEC. 69.~~

23 *SEC. 67.* Section 1808.21 of the Vehicle Code is amended to
24 read:

25 1808.21. (a) Any residence address in any record of the
26 department is confidential and shall not be disclosed to any person,
27 except a court, law enforcement agency, or other government
28 agency, or as authorized in Section 1808.22 or 1808.23.

29 (b) Release of any mailing address or part thereof in any record
30 of the department may be restricted to a release for purposes
31 related to the reasons for which the information was collected,
32 including, but not limited to, the assessment of driver risk, or
33 ownership of vehicles or vessels. This restriction does not apply
34 to a release to a court, a law enforcement agency, or other
35 governmental agency, or a person who has been issued a requester
36 code pursuant to Section 1810.2.

37 (c) Any person providing the department with a mailing
38 address shall declare, under penalty of perjury, that the mailing
39 address is a valid, existing, and accurate mailing address and shall
40 consent to receive service of process pursuant to subdivision (b)

1 of Section 415.20, subdivision (a) of Section 415.30, and Section
2 416.90 of the Code of Civil Procedure at the mailing address.

3 (d) (1) Any registration or driver's license record of a person
4 may be suppressed from any other person, except those persons
5 specified in subdivision (a), if the person requesting the
6 suppression submits verification acceptable to the department that
7 he or she has reasonable cause to believe either of the following:

8 (A) That he or she is the subject of stalking, as specified in
9 Section 1708.7 of the Civil Code or Section 646.9 of the Penal
10 Code.

11 (B) That there exists a threat of death or great bodily injury to
12 his or her person, as defined in Section 12022.7 of the Penal Code.

13 (2) Upon suppression of a record, each request for information
14 about that record shall be authorized by the subject of the record
15 or verified as legitimate by other investigative means by the
16 department before the information is released.

17 (e) Suppression of a record pursuant to subdivision (d) shall
18 occur for one year after approval by the department. Not less than
19 60 days prior to the date the suppression of the record would
20 otherwise expire, the department shall notify the subject of the
21 record of its impending expiration. The suppression may be
22 continued for two additional periods of one year each if a letter is
23 submitted to the department stating that the person continues to
24 have a reasonable cause to believe that he or she is the subject of
25 stalking or that there exists a threat of death or great bodily injury
26 as described in subparagraph (B) of paragraph (1) of subdivision
27 (d). The suppression may be additionally continued at the end of
28 the second one-year period by submitting verification acceptable
29 to the department. The notification described in this subdivision
30 shall instruct the person of the method to reapply for record
31 suppression.

32 (f) For the purposes of subdivisions (d) and (e), "verification
33 acceptable to the department" means recent police reports, court
34 documentation, or other documentation from a law enforcement
35 agency.

36 ~~SEC. 70.~~

37 *SEC. 68.* Section 13202.4 of the Vehicle Code is amended to
38 read:

39 13202.4. (a) (1) For each conviction of a minor who
40 commits a public offense involving a pistol, revolver, or other

1 firearm capable of being concealed upon the person, the court may
2 suspend the minor's driving privilege for five years. If the minor
3 convicted does not yet have the privilege to drive, the court may
4 order the department to delay issuing the privilege to drive for five
5 years subsequent to the time the person becomes legally eligible
6 to drive. For each successive offense, the court may suspend the
7 minor's driving privilege for those possessing a license or delay
8 the eligibility for those not in possession of a license at the time of
9 their conviction for one additional year.

10 (2) (A) Any minor whose driving privilege is suspended
11 pursuant to this section may elect to reduce the period of
12 suspension or delay imposed by the court by performing
13 community service under the supervision of the probation
14 department if both of the following conditions are met:

15 (i) At least 50 percent of the suspension or delay period has
16 expired.

17 (ii) The person has not been the subject of any other criminal
18 conviction during the suspension or delay period.

19 (B) If the conditions specified in subparagraph (A) are met, the
20 period of suspension or delay ordered under paragraph (1) shall be
21 reduced at the rate of one day for each hour of community service
22 performed.

23 (3) As used in this section, the term "conviction" includes the
24 findings in juvenile proceedings specified in Section 13105.

25 (b) (1) Whenever the court suspends driving privileges
26 pursuant to subdivision (a), the court in which the conviction is had
27 shall require all driver's licenses held by the person to be
28 surrendered to the court. The court shall, within 10 days following
29 the conviction, transmit a certified abstract of the conviction,
30 together with any driver's licenses surrendered, to the department.

31 (2) Violations of restrictions imposed pursuant to this section
32 are subject to Section 14603.

33 (c) When the court is considering suspending or delaying
34 driving privileges pursuant to subdivision (a), the court shall
35 consider if a personal or family hardship exists that requires the
36 person to have a driver's license for his or her own, or a member
37 of his or her family's, employment or medically related purposes.

38 (d) The suspension, restriction, or delay of driving privileges
39 pursuant to this section shall be in addition to any penalty imposed
40 upon conviction for the offense.

1 ~~SEC. 71.~~

2 *SEC. 69.* Section 22658.1 of the Vehicle Code is amended to
3 read:

4 22658.1. (a) Any towing company that, in removing a
5 vehicle, cuts, removes, otherwise damages, or leaves open a fence
6 without the prior approval of the property owner or the person in
7 charge of the property shall then and there do either of the
8 following:

9 (1) Locate and notify the owner or person in charge of the
10 property of the damage or open condition of the fence, the name
11 and address of the towing company, and the license, registration,
12 or identification number of the vehicle being removed.

13 (2) Leave in a conspicuous place on the property the name and
14 address of the towing company, and the license, registration, or
15 identification number of the vehicle being removed, and shall
16 without unnecessary delay, notify the police department of the city
17 in which the property is located, or if the property is located in
18 unincorporated territory, either the sheriff or the local
19 headquarters of the Department of the California Highway Patrol,
20 of that information and the location of the damaged or opened
21 fence.

22 (b) Any person failing to comply with all the requirements of
23 this section is guilty of an infraction.

24 ~~SEC. 72.~~

25 *SEC. 70.* Section 302 of the Welfare and Institutions Code is
26 amended to read:

27 302. (a) A juvenile court may assume jurisdiction over a
28 child described in Section 300 regardless of whether the child was
29 in the physical custody of both parents or was in the sole legal or
30 physical custody of only one parent at the time that the events or
31 conditions occurred that brought the child within the jurisdiction
32 of the court.

33 (b) Unless their parental rights have been terminated, both
34 parents shall be notified of all proceedings involving the child. In
35 any case where the social worker is required to provide a parent or
36 guardian with notice of a proceeding at which the social worker
37 intends to present a report, the social worker shall also provide
38 both parents, whether custodial or noncustodial, or any guardian,
39 or the counsel for the parent or guardian a copy of the report prior
40 to the hearing, either personally or by first-class mail. The social

worker shall not charge any fee for providing a copy of a report required by this subdivision. The social worker shall keep confidential the address of any parent who is known to be the victim of domestic violence.

(c) When a child is adjudged a dependent of the juvenile court, any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the child remains a dependent of the juvenile court.

(d) Any custody or visitation order issued by the juvenile court at the time the juvenile court terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or action described in Section 3021 of the Family Code unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.

~~SEC. 73.~~

SEC. 71. Section 319.1 of the Welfare and Institutions Code is amended to read:

319.1. When the court finds a minor to be a person described by Section 300, and believes that the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5694.7 for all those minors.

Nothing in this section shall restrict the provisions of emergency psychiatric services to those minors who are involved in dependency cases and have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict orders removing the minor from a detention facility for psychiatric treatment.

~~SEC. 74.~~

SEC. 72. Section 367 of the Welfare and Institutions Code is amended to read:

1 367. (a) Whenever a person has been adjudged a dependent
2 child of the juvenile court and has been committed or otherwise
3 disposed of as provided in this chapter for the care of dependent
4 children of the juvenile court, the court may order that ~~said the~~
5 dependent child be detained in a suitable place designated as the
6 court deems fit until the execution of the order of commitment or
7 of other disposition.

8 (b) In any case in which a child is detained for more than 15
9 days pending the execution of the order of commitment or of any
10 other disposition, the court shall periodically review the case to
11 determine whether the delay is reasonable. These periodic reviews
12 shall be held at least every 15 days, commencing from the time the
13 child was initially detained pending the execution of the order of
14 commitment or of any other disposition, and during the course of
15 each review the court shall inquire regarding the action taken by
16 the social worker to carry out its order, the reasons for the delay,
17 and the effect of the delay upon the child.

18 ~~SEC. 75.~~

19 SEC. 73. Section 602 of the Welfare and Institutions Code is
20 amended to read:

21 602. (a) Except as provided in subdivision (b), any person
22 who is under the age of 18 years when he or she violates any law
23 of this state or of the United States or any ordinance of any city or
24 county of this state defining crime other than an ordinance
25 establishing a curfew based solely on age, is within the jurisdiction
26 of the juvenile court, which may adjudge such person to be a ward
27 of the court.

28 (b) Any person who is alleged, when he or she was 14 years of
29 age or older, to have committed one of the following offenses shall
30 be prosecuted under the general law in a court of criminal
31 jurisdiction:

32 (1) Murder, as described in Section 187 of the Penal Code, if
33 one of the circumstances enumerated in subdivision (a) of Section
34 190.2 of the Penal Code is alleged by the prosecutor, and the
35 prosecutor alleges that the minor personally killed the victim.

36 (2) The following sex offenses, if the prosecutor alleges that the
37 minor personally committed the offense, and if the prosecutor
38 alleges one of the circumstances enumerated in the One Strike law,
39 ~~subdivisions~~ subdivision (d) or (e) of Section 667.61 of the Penal
40 Code, applies:

1 (A) Rape, as described in paragraph (2) of subdivision (a) of
2 Section 261 of the Penal Code.

3 (B) Spousal rape, as described in paragraph (1) of subdivision
4 (a) of Section 262 of the Penal Code.

5 (C) Forcible sex offenses in concert with another, as described
6 in Section 264.1 of the Penal Code.

7 (D) Forcible lewd and lascivious acts on a child under the age
8 of 14 years, as described in subdivision (b) of Section 288 of the
9 Penal Code.

10 (E) Forcible sexual penetration, as described in subdivision (a)
11 of Section 289 of the Penal Code.

12 (F) Sodomy or oral copulation in violation of Section 286 or
13 288a of the Penal Code, by force, violence, duress, menace, or fear
14 of immediate and unlawful bodily injury on the victim or another
15 person.

16 (G) Lewd and lascivious acts on a child under the age of 14
17 years, as defined in subdivision (a) of Section 288, unless the
18 defendant qualifies for probation under subdivision (c) of Section
19 1203.066 of the Penal Code.

20 ~~SEC. 76.~~

21 *SEC. 74.* Section 602.5 of the Welfare and Institutions Code,
22 as added by Chapter 996 of the Statutes of 1999, is amended and
23 renumbered to read:

24 602.3. (a) Notwithstanding any other law and pursuant to the
25 provisions of this section, the juvenile court shall commit any
26 minor adjudicated to be a ward of the court for the personal use of
27 a firearm in the commission of a violent felony, as defined in
28 subdivision (c) of Section 667.5 of the Penal Code, to placement
29 in a juvenile hall, ranch, camp, or with the *Department of the*
30 Youth Authority.

31 (b) A court may impose a treatment-based alternative
32 placement order on any minor subject to this section if the court
33 finds the minor has a mental disorder requiring intensive
34 treatment. Any alternative placement order under this subdivision
35 shall be made on the record, in writing, and in accordance with
36 Article 3 (commencing with Section 6550) of Chapter 2 of Part 2
37 of Division 6.

38 ~~SEC. 77.~~

39 *SEC. 75.* Section 635.1 of the Welfare and Institutions Code
40 is amended to read:

635.1. When the court finds a minor to be a person described by Section 602 and believes the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provision of emergency psychiatric services to those minors who have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict the use of Sections 4011.6 and 4011.8 of the Penal Code.

~~SEC. 78.~~

SEC. 76. Section 730.7 of the Welfare and Institutions Code, as added by Chapter 996 of the Statutes of 1999, is amended and renumbered to read:

730.8. (a) Except as provided in subdivision (b), the court shall require any minor who is ordered to pay restitution pursuant to Section 730.6, or to perform community service, to report to the court on his or her compliance with the court's restitution order or order for community service, or both, no less than annually until the order is fulfilled.

(b) For any minor committed to the Department of the Youth Authority, the department shall monitor the compliance with any order of the court that requires the minor to pay restitution. Upon the minor's discharge from the Department of the Youth Authority, the department shall notify the court regarding the minor's compliance with an order to pay restitution.

~~SEC. 79.~~

SEC. 77. The heading of Article 18.5 (commencing with Section 743) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 18.6. Repeat Offender Prevention Project

~~SEC. 80.~~

SEC. 78. Section 5270.55 of the Welfare and Institutions Code is amended to read:

5270.55. (a) Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the

1 14-day period of intensive treatment and prior to proceeding with
2 an additional 30-day certification, the professional person in
3 charge of the facility shall cause an evaluation to be made, based
4 on the patient's current condition and past history, as to whether
5 it appears that the person, even after up to 30 days of additional
6 treatment, is likely to qualify for appointment of a conservator. If
7 the appointment of a conservator appears likely, the
8 conservatorship referral shall be made during the 14-day period of
9 intensive treatment.

10 (b) If it appears that with up to 30 days additional treatment a
11 person is likely to reconstitute sufficiently to obviate the need for
12 appointment of a conservator, then the person may be certified for
13 the additional 30 days.

14 (c) Where no conservatorship referral has been made during
15 the 14-day period and where during the 30-day certification it
16 appears that the person is likely to require the appointment of a
17 conservator, then the conservatorship referral shall be made to
18 allow sufficient time for conservatorship investigation and other
19 related procedures. If a temporary conservatorship is obtained, it
20 shall run concurrently with and not consecutively to the 30-day
21 certification period. The conservatorship hearing shall be held by
22 the 30th day of the certification period. The maximum involuntary
23 detention period for gravely disabled persons pursuant to Sections
24 5150, 5250 and 5270.15 shall be limited to 47 days. Nothing in this
25 section shall prevent a person from exercising his or her right to
26 a hearing as stated in Sections 5275 and 5353.

27 ~~SEC. 81.~~

28 *SEC. 79.* No reimbursement is required by this act pursuant
29 to Section 6 of Article XIII B of the California Constitution
30 because the only costs that may be incurred by a local agency or
31 school district will be incurred because this act creates a new crime
32 or infraction, eliminates a crime or infraction, or changes the
33 penalty for a crime or infraction, within the meaning of Section
34 17556 of the Government Code, or changes the definition of a
35 crime within the meaning of Section 6 of Article XIII B of the
36 California Constitution.

37 ~~SEC. 82. This act is an urgency statute necessary for the~~
38 ~~immediate preservation of the public peace, health, or safety~~
39 ~~within the meaning of Article IV of the Constitution and shall go~~
40 ~~into immediate effect. The facts constituting the necessity are:~~

1 ~~In order to correct and conform certain criminal law statutes at~~
2 ~~the earliest possible time so as to avoid confusion regarding these~~
3 ~~provisions, it is necessary for this act to take immediate effect.~~

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